



**SimpleVisit ClickThru Agreement  
Standard Terms and Conditions**

By clicking on the "Agree" or "Accept" or a similar button at the end of this Agreement ("Acceptance"), or authorizing any other person to do so, you are representing to SimpleVisit that you are (i) authorized to bind Customer; and (ii) agreeing on behalf of Customer that the terms of this Agreement shall govern the relationship of the Parties with regard to the subject matter in this Agreement and are waiving any rights, to maximum extent permitted by applicable law, to any claim anywhere in the world concerning the enforceability or validity of this Agreement. If you do not have authority to agree to the terms of this Agreement on behalf of the Customer, or do not accept the terms of this Agreement on behalf of Customer, click on the "Cancel" or "Decline" or other similar button at the end of this Agreement and/or immediately cease any further attempt to use this [Product]. SimpleVisit reserves the right to change or modify the terms and conditions set forth herein at any time and in its sole discretion. Any changes will be effective immediately upon posting them to the SimpleVisit website. Your continued use of the [Product] will confirm your acceptance of such changes or modifications. If you do not agree to the amended terms, you must stop using the [Product]. SimpleVisit and Customer collectively shall be referred to herein as the "Parties" and each individually as a "Party." This Agreement is effective as of the date of your Acceptance of these terms ("Effective Date") and the initial term shall be for a period of three months ("Initial Term").

1. **Definitions.** The following terms used in this Agreement shall have the meanings set forth in this Section 1. Unless specifically stated otherwise, capitalized terms used in Exhibits and Statements of Work shall have the meaning set forth in this Agreement.

**"Affiliate"** means any corporation or other entity that controls, is controlled by, or is under common control with a Party. A corporation or other entity shall be deemed to control another if it owns or controls directly or indirectly more than fifty percent (50%) of the voting stock or other ownership interest of the corporation or entity or has the right to direct the management of such entity.

**"Documentation"** means all End User documentation made available by SimpleVisit to Customer and any succeeding changes thereto. The Documentation shall be considered a component of the Services.

**"End User"** means authorized individual persons who are designated by Customer as being licensed to use the Services. End Users include Customer's employees, Patients, translators, and consultants, as well as medical service providers affiliated with, employed by, or referred by Customer.

**"Exhibits"** mean the documents attached hereto and incorporated by this reference, as may be amended from time to time by agreement of the Parties. In the event of any inconsistency, the documents shall take precedence in the following order: Terms and Conditions, Specifications, Exhibit B (Fee Schedule), all other Exhibits. Exhibits include, without limitation, the following:

**Exhibit A: Services Description**

**Exhibit B: Fee Schedule**

**Exhibit C: Business Associate Agreement**

**"HIPAA"** means the Health Insurance Portability and Accountability Act of 1996 (Pub.L. 104–191, 110 Stat. 1936, enacted August 21, 1996), as amended.

**"Marks"** means the trade names, trade dress, trademarks, service marks, commercial symbols, domain names, brands, designs, logos and/or any other marks used to denote the owner or licensors as the source of the products and services.

**“Patient”** shall generally have the same meaning as the term “Individual” at 45 C.F.R. § 160.103.

**“Services”** means the specific service offering set forth in Exhibit A (Services Description) and Specifications.

**“Specifications”** means the specifications for the Services provided under this Agreement as set forth in Exhibit A (Services Description) as well as all other terms included in the specific webform.

- 2. Term and Renewal.** This Agreement shall commence as of the Effective Date, and unless earlier terminated as provided herein, shall continue for the Initial Term (as specified in the Specifications). Unless terminated in accordance with the termination provisions of this Agreement as provided herein, the Agreement shall automatically renew for successive one (1) year terms (a **“Renewal Term”**) unless either Party provides advance written notice of its intention not to renew this Agreement at least thirty (30) days prior to the end of the Initial Term or any subsequent Renewal Term. The Initial Term and any and all Renewal Terms shall collectively be referred to as the **“Term”**.

### **3. Appointments**

**1.1 SimpleVisit’s Appointment as Service Provider.** Customer hereby appoints SimpleVisit, and SimpleVisit hereby accepts appointment, as Customer’s agent solely for purposes of implementing this Agreement and providing the Services set forth in the Specifications.

**1.2 Not for Resale.** Unless the Parties otherwise agree in writing, Customer’s purchase of the Services indicated in the Specifications shall be for Customer’s own internal use and not for resale to third parties. This appointment is limited to Customer only and may not be assigned or transferred by Customer or otherwise extended to any other party except as set for in Section 18.3 (Assignment) of the Agreement.

- 4. Licenses.** Subject to the terms and conditions of this Agreement including any payment obligations, SimpleVisit grants to Customer, and Customer accepts, strictly during the Term of this Agreement the following license (the **“License”**):

**1.3 Managed Services License Grant.** SimpleVisit grants Customer, during the Term, a limited, nontransferable, and nonexclusive license to access and use the Services operated and managed by SimpleVisit and in accordance with the provisions of this Agreement and the Specifications. No license is granted under this License to access, copy, use, or create derivative works of the software that underlies the Services, except in connection with the Services.

**1.4 Limitations on Use.** No license is given to Customer to the source code to the software that underlies the Services. Without the express written authorization from SimpleVisit, Customer shall not (nor through any third party): (i) use, copy, duplicate or reproduce all or any portion of the Services (including the Documentation) for any purpose other than as specified in this Agreement (ii) decompile, disassemble, re-program, analyze, reverse engineer any of the Services (in whole or in part) or otherwise attempt to reconstruct, identify or discover any underlying ideas, underlying user interface techniques or algorithms, or source code, or disclose any of the foregoing (except to the extent such restriction is prohibited by law); (iii) except as expressly authorized herein, sell, rent, lease, license, sublicense or in any way redistribute any or all of the Services; (iv) use the Services to create a service bureau, timesharing arrangement, or application service provider; (v) modify, adapt, translate, prepare derivative works of all or any portion of the Services or attempt to do so; (vi) remove, obscure or alter SimpleVisit’s or its licensors’ product identification, copyright notices, Marks or other proprietary rights notices affixed to or contained within the Services or Documentation; (vii) permit the Services to be used, examined, reviewed or inspected by others, other than by Customer’s employees, End Users, prospective End Users, auditors or governmental agencies as required by law; (viii) disclose the results of any benchmark or evaluation of the Services to any third party (whether or not obtained with SimpleVisit’s assistance) without SimpleVisit’s prior express written consent; (ix) use the Services, Documentation or any information contained therein or otherwise provided by SimpleVisit or its licensors for the purposes of developing, or having developed, any products or

services competitive with the Services; (x) incorporate, link, or distribute the Services with any code or software licensed under the GNU General Public License (“**GPL**”), Lesser General Public License (“**LGPL**”), Mozilla, or any other open source license, in any manner that could cause or could be interpreted or asserted to cause the Services (or any modifications thereto) to become subject to the terms of the GPL, LGPL, Mozilla or such other open source license. Customer shall not authorize, or acquiesce in, any other person engaging in any of the foregoing activities, or attempting to do so.

**1.5 End User License Agreement and Privacy Policy.** Customer's sublicensing of Services to End Users is subject to the terms and conditions of the End User license accompanying the Services, including the applicable end user license agreement set forth at [EULA website] (the “**EULA**”) and SimpleVisit privacy policy set forth on [Privacy Policy Website] (the “**Privacy Policy**”).

**1.6 No License to Affiliates.** Unless specified otherwise in Specifications, any and all Licenses are granted to Customer and not, by implication or otherwise, to any Affiliate of Customer.

**1.7 Reserved Rights.** SimpleVisit reserves all rights not expressly granted under this Agreement.

## **5. Maintenance and Support**

**1.8 Coordinator Support.** As a component of the Services, SimpleVisit makes available a call coordinator (“**Coordinator**”) to help facilitate the setup and arrangements of the call between the various End Users partaking in the call. Coordinators are not medical service providers and no information provided by Coordinators shall be construed as medical advice or direction.

**1.9 Service Levels.** SimpleVisit shall make maintenance and support for the Services available to Customer in accordance with the terms and conditions described in Exhibit A (Services Description) to this Agreement (hereinafter “**Maintenance and Support**”).

**1.10 Delays in Performance.** SimpleVisit will not be responsible for implementation delays or service degradations that are not within its control including, without limitation, implementation delays or service degradations caused by Customer, third-party service providers or any interconnecting communications carrier. SimpleVisit and Customer shall each perform their respective obligations and carry out their responsibilities as described and according to this Agreement.

**1.11 Title to Equipment.** As between Customer and SimpleVisit, title to any communications equipment and computer hardware installed by SimpleVisit or its licensors in connection with the performance of the Services will remain with SimpleVisit or its licensors.

## **6. Customer Obligations**

**1.12 Access and Passwords.** After the Service is ready for use by Customer, SimpleVisit shall issue (a) a link to Customer that will enable Customer to access the Service; and (b) a password to access the Service. Customer and its End Users are responsible for accessing the Service in accordance with the terms of this Agreement and maintaining the confidentiality of all passwords at all times and for ensuring that issued passwords are used only by the authorized End User(s). Customer is entirely responsible for all activities that occur under Customer's account and all charges incurred in connection with use of the Service using Customer's passwords. Customer shall immediately notify SimpleVisit of any unauthorized use of Customer's account, including, without limitation, each password of an End User accessing the Service by means of Customer's account, or any other breach of this Agreement or any security breach known to Customer. SimpleVisit shall have no liability for any loss or damage arising from Customer's failure to comply with these requirements.

**1.13 Cooperation and Assistance.** Customer shall provide SimpleVisit with access to technical personnel and information in connection with performance of the Services and will furnish all information and assistance required to be provided by Customer under the Specifications. Customer will promptly notify SimpleVisit in sufficient detail of any defect, deficiency or error

known to or discovered in the Services by Customer in sufficient detail to enable SimpleVisit to duplicate the condition and SimpleVisit will make all reasonable efforts to implement a remedy in a timely manner.

**1.14 Export of Services.** All Services, deliverables, documents, technical data, and any other materials delivered under this Agreement are subject to U.S. export control laws and may be subject to export or import regulations in other countries. Customer agrees to comply strictly with these laws and regulations and acknowledges that it has the responsibility to obtain any licenses to export, re-export, or import as may be required by law. Any delays attributable to SimpleVisit's ability to secure appropriate export licenses or other required export documentation shall not be considered a breach of this Agreement.

**1.15 Compliance with Third Party Applications.** Customer shall comply with all licensing and other requirements from third party application providers ("**Third Party Application Providers**") while using the Services. Third party application providers include but are not limited to manufacturers and developers of the applications that facilitate video conferencing and other third party technology used during the Services ("**Third Party Applications**"). In order to utilize such Third Party Applications, Customer may be required to enter into separate subscription or licensing agreements with Third Party Application Providers. Customer's use of Third Party Applications constitutes agreement to be bound by the terms of all licensing, subscription and similar agreements with the Third Party Application Providers. Any violation of any such Third Party Application licenses or other agreements shall constitute a material breach of this Agreement.

## 7. Prices

**1.16 Services Prices.** In consideration for Customer's internal use and access to the Services, Customer shall pay the prices ("**Prices**") for such Services in the price lists set forth in Specifications and Exhibit B (Fee Schedule) (the "**Price List**") during the period of performance specified in the Specifications.

**1.17 Price Changes.** The Price List set forth in Exhibit B (Fee Schedule) is subject to changes by providing Customer with a revised Exhibit B at least fourteen (14) days prior to the beginning of each Renewal Term. Unless Customer provides written notice to SimpleVisit of its intention not to renew this Agreement in accordance Section 2 (Term and Renewal), then the revised Exhibit B shall take effect on the first day of the Renewal Term.

**1.18 Taxes.** Taxes are not included in Prices. Customer shall pay all applicable sales, customs, duty, use, property, withholding, value-added, excise and any other taxes or duties imposed under the authority of any federal, state or local taxing jurisdiction for the Services, except any tax assessed upon SimpleVisit's net income. Customer shall not reduce any fees or charges owed to SimpleVisit as a result of any such taxes or duties.

## 2. Invoicing, Payment and Billing

**2.1 Billing to Customer.** On a monthly basis, in advance of the billing cycle which commences on the same calendar day of each month during the Term as the Effective Date and ends on the day before such calendar day of the next month (the "**Billing Cycle**"), SimpleVisit shall calculate the charges due from Customer for usage of the Services during the next Billing Cycle in accordance with the Price List (collectively, the "**Monthly Charge**"). From time to time, SimpleVisit may request assistance from Customer when reconciling the Monthly Charge and Customer shall use reasonable efforts to cooperate with SimpleVisit regarding same.

**2.2 Payment By Credit Card.** Customer hereby authorizes SimpleVisit to debit the Monthly Charge to a credit card provided by Customer on the date the Monthly Charges are calculated (the "**Due Date**") unless specified otherwise in the Specifications.

**2.3 Payment Terms.** Any payment rejected by the credit card company will be subject to interest from the Due Date through the date paid, at a rate of one and one half (1 ½%) percent per month,

or the maximum rate allowable at law, if less. No discounts for early payment are authorized.

- 2.4 Currency.** Unless specified otherwise in Specifications, all Prices and all payments made to SimpleVisit shall be in United States dollars.
- 2.5 Disputed Invoices.** If Customer disputes any of the Monthly Charges, Customer must provide SimpleVisit with written notice of the dispute containing a detailed description of the request for each specific item disputed by the Due Date if invoiced or within thirty (30) days of the date of the date of the credit card charge ("**Disputed Item**"). If Customer fails to provide SimpleVisit with such written notice of the dispute within such timeframe, then SimpleVisit shall not be obligated to investigate or revise the invoice.
- 2.6 Failure to Pay.** Failure to pay any fees or other charges or amounts (including Taxes) due, less Disputed Items, to SimpleVisit on or before the Due Date and after written notification by SimpleVisit shall be a breach of this Agreement ("**Failure to Pay**"). Notwithstanding anything else contained in this Agreement, in the event that a Failure to Pay is not cured within fifteen (15) days, SimpleVisit may suspend access to the Services and/or terminate this Agreement for default. Any suspension may be continued until the Failure to Pay has been cured. SimpleVisit shall be entitled to recover reasonable attorney's fees and costs incurred by SimpleVisit in collecting all unpaid amounts hereunder following a Failure to Pay.
- 2.7 No Setoffs or Accord and Satisfaction.** Customer is solely responsible for the payment of all Monthly Charges, Taxes, fees, charges and other amounts as set forth in this Agreement. Customer shall not set off or withhold any amount from SimpleVisit, except for Disputed Items. Customer shall not place any condition or restrictive legend, such as "Paid in Full", on any check or instrument used to make a payment. The Parties agree that the negotiation of any such check or instrument so inscribed shall not constitute an accord and satisfaction or novation, and Customer waives its right to assert any such defense.

## 8. Intellectual Property Rights

- 2.8 SimpleVisit Intellectual Property Rights.** Customer acknowledges and agrees that the intellectual property rights underlying the Services ("**SimpleVisit IP**") are owned by, and shall remain the sole property of SimpleVisit and its licensors, that the SimpleVisit IP contains, embodies and is based upon worldwide patented or patentable inventions, trade secrets, copyrights and other intellectual property rights (collectively, "**Intellectual Property Rights**") owned or licensed by SimpleVisit and its licensors, and that SimpleVisit and its licensors shall continue to be the sole owner of all Intellectual Property Rights in and to the SimpleVisit IP worldwide including, without limitation, any derivative works. This Agreement does not convey to Customer title or ownership of the Intellectual Property Rights underlying the SimpleVisit IP, but only a right of limited use and distribution in accordance with this Agreement. Customer acknowledges that the SimpleVisit IP provided by SimpleVisit pursuant to this Agreement is entitled to protection under applicable copyright and other intellectual property laws and constitute valuable assets, trade secrets and proprietary rights of SimpleVisit or its licensors.
- 2.9 Customer Intellectual Property Rights.** SimpleVisit acknowledges and agrees that the intellectual property rights underlying any intellectual property provided by Customer to SimpleVisit hereunder ("**Customer IP**") are owned by, and shall remain the sole property of Customer and its licensors, that the Customer IP contains, embodies and is based upon worldwide patented or patentable inventions, trade secrets, copyrights and other intellectual property rights (collectively, "**Intellectual Property Rights**") owned or licensed by Customer and its licensors, and that Customer and its licensors shall continue to be the sole owner of all Intellectual Property Rights in and to the Customer IP worldwide including, without limitation, any derivative works. This Agreement does not convey to SimpleVisit title or ownership of the Intellectual Property Rights underlying the Customer IP, but only a right of limited use and distribution in accordance with this Agreement. SimpleVisit acknowledges that the Customer IP provided by Customer pursuant to this Agreement is entitled to protection under applicable copyright and other intellectual property laws and constitute valuable assets, trade secrets and

proprietary rights of Customer or its licensors.

**2.10 Suggestions.** Many of SimpleVisit's changes to user interfaces, features, functionality, and other aspects of the Services come as a result of suggestions made by customers and partners, whether in the form of suggestions, enhancement requests, recommendations, or other feedback, with regard to the Services (all of the foregoing, collectively, "**Suggestions**"). All customers benefit from SimpleVisit incorporating Suggestions in future releases of the Services. Customer grants to SimpleVisit an irrevocable, worldwide, royalty-free, perpetual license to use as SimpleVisit deems appropriate any Suggestions that Customer, or any person or entity under the direction or control of Customer, provides to SimpleVisit, to incorporate such Suggestions in any form into the Services (or any other products or services), and to exercise any other rights with respect to such Suggestions, even if the Suggestions are designated as Confidential Information. SimpleVisit shall be entitled to use any Suggestions without restriction and without obligation to Customer or any third party.

## **9. Confidentiality; Data Security**

### **2.11 Confidentiality**

9.1.1 "**Confidential Information**" means all such information, material and data received by one Party (the "**Receiving Party**") from the other Party (the "**Disclosing Party**") or its clients, whether disclosed in writing or verbally, (i) that is labeled or designated in writing as confidential or proprietary, (ii) which Receiving Party is advised is proprietary or confidential or (iii) which, in view of the nature of such information or the circumstances of its disclosure, Receiving Party knows or reasonably should know is confidential or proprietary. Confidential Information includes Patient Data as well as the terms and conditions of this Agreement. Confidential Information shall not include information which (a) is or becomes publicly available through no act or omission of the Receiving Party; (b) is rightfully received from a third party without an obligation of confidence; (c) is independently developed by the Receiving Party without reference to Confidential Information; or (d) is required to be disclosed in accordance with a judicial or governmental order or decree, provided that the Receiving Party provides prompt notice of the order or decree to the Disclosing Party and reasonably cooperates with the Disclosing Party to limit the disclosure and use of the Confidential Information.

9.1.2 **Use of Confidential Information.** The Receiving Party will hold any Confidential Information in strict confidence for a period of three (3) years from termination of this Agreement, except that the obligation of the Receiving Party to maintain the confidentiality of trade secrets and personally identifiable data, including but not limited to Patient Data, shall survive indefinitely. The Receiving Party will use such Confidential Information only in accordance with the terms of this Agreement. The Receiving Party shall limit the use of, and access to, the Confidential Information to its employees or agents whose use of or access to the Confidential Information is necessary to carry out the intent of this Agreement. The Receiving Party shall, by appropriate means, prevent the unauthorized disclosure, publication, display or use of any Confidential Information. Without limiting the generality of the foregoing, the Receiving Party shall require all employees, agents or contractors who shall have access to the Confidential Information to execute, prior to such access, a non-disclosure agreement providing for at least the same protection of the Confidential Information as is provided for by this section.

9.1.3 **Destruction or Return of Confidential Information.** Upon expiration or termination of this Agreement for any reason, the Receiving Party shall promptly return to the Disclosing Party, or, if requested, destroy all copies of the Disclosing Party's Confidential Information in its possession. All copies, notes or other derivative material relating to the Confidential Information shall be promptly retrieved or destroyed, as agreed, and no such material shall be retained or used by the Receiving Party in any form or for any reason.

**2.12 Patient Data.** As between SimpleVisit and Customer, Customer retains all right, title and ownership in any patient data and information inputted into the Service ("**Patient Data**").

SimpleVisit may keep one copy of Patient Data after termination of this Agreement for purposes of resolving disputes and may use Patient Data only as authorized in this Agreement.

**2.13 Business Associate Agreement.** SimpleVisit will receive, create and maintain or transmit Patient Data of Customer which constitutes Protected Health Information (PHI) as defined by HIPAA and that such activities render SimpleVisit a business associate as that term is defined by HIPAA. Accordingly, the Parties will enter into a business associate agreement in a form substantially similar to the one attached hereto as Exhibit C (Business Associate Agreement).

## 10. Security

**2.14 SimpleVisit Systems and Security Obligations.** SimpleVisit will employ security measures in accordance with applicable law and industry practice.

**2.15 Data Breach Procedures.** SimpleVisit maintains a data breach plan in accordance with applicable law and industry practice.

## 11. Warranties

**2.16 Mutual Warranties.** Each Party represents and warrants that it has the full corporate or organizational power to enter into and perform this Agreement, and that the execution and performance hereof has been duly authorized by all necessary corporate or other organizational action.

**2.17 Customer Warranties.** Customer warrants that it will not make any warranties regarding the Services to any third parties, including but not limited to End Users on behalf of SimpleVisit or its licensors that exceed the warranties made by SimpleVisit in this Agreement or the EULA.

**2.18 Services Warranty.** SimpleVisit warrants that the Services will function substantially in accordance with the Specifications, and operate in a manner consistent with all applicable laws or regulations. Customer's sole remedy for any claims under this Section 12.3 shall be to correct such failures at no charge to Customer. SimpleVisit makes no warranties regarding any Third Party Applications and Customer shall direct all warranty and other support inquiries regarding Third Party Applications to Third Party Application Providers.

**2.19 WARRANTY DISCLAIMER.** THE FOREGOING WARRANTIES ARE IN LIEU OF, AND THE PARTIES EXPRESSLY DISCLAIM, ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY, AND FITNESS FOR A PARTICULAR PURPOSE AND ANY IMPLIED WARRANTIES ARISING FROM STATUTE, COURSE OF DEALING, COURSE OF PERFORMANCE OR USAGE OF TRADE. SIMPLEVISIT SPECIFICALLY DISCLAIMS ANY WARRANTY THAT THE OPERATION OF THE SERVICES WILL BE UNINTERRUPTED OR ERROR FREE.

## 12. Indemnification.

**2.20 Indemnification by Customer.** Customer (the "**Indemnifying Party**") shall defend, indemnify and hold harmless SimpleVisit, and each of its officers, directors, owners, employees, agents, or vendors (each, an "**Indemnified Party**" and, collectively, the "**Indemnified Parties**"), from and against all third party actions, suits, losses, liabilities, claims, expenses, damages, and costs of every kind and description including reasonable legal fees (collectively, "**Losses**") arising out of or in connection with (i) use of the Services (except to the extent that the Loss is caused by actions or inactions of SimpleVisit); (ii) claims that Customer IP infringes any trademark, patent, copyright or misappropriates any trade secret enforceable in the United States (an "**IP Claim**") (iii) Customer's failure to meet regulatory requirements or failure to obtain any necessary governmental approvals; (iv) Customer's failure to comply with all licensing requirements for Third Party Applications; or (v) any Loss for medical malpractice in connection with any End Users' performance of medical services who are medical service providers.

**2.21 Indemnification by SimpleVisit.** SimpleVisit (the "**Indemnifying Party**") shall defend, indemnify and hold harmless Customer and its officers and directors, owners, employees, agents, or vendors (each, an "**Indemnified Party**" and, collectively, the "**Indemnified Parties**") from and

against all third party actions, suits, losses, liabilities, claims, expenses, damages, and costs of every kind and description including reasonable legal fees (collectively, "**Losses**") arising out of or in connection with any specific third-party claim, suit, or allegation that the Services provided by SimpleVisit under this Agreement specifically causes an infringement of a patent, trademark, copyright or other proprietary right of such third party that is enforceable in the United States (collectively the "**IP Claim**"). SimpleVisit shall not be liable for: (i) any costs or expenses incurred by Customer without SimpleVisit's prior written authorization; (ii) designs, instructions, data, materials, or any other intellectual property provided by Customer; (iii) infringement caused from unauthorized modifications to the Services; (iv) Customer's combination of the Services with other products or services and the infringement would have been avoided but for such combination; (v) SimpleVisit's originated design or modification where infringement is due to such specified design or modification; or (vi) Customer's use of the Services other than in accordance with the Specifications.

**2.22 Indemnity Procedure.** The Indemnified Party shall provide the Indemnifying Party with (i) prompt written notice of any Losses under this Section 13 (Indemnification) for which it seeks indemnification hereunder; (ii) full information and assistance in settling and/or defending the Losses; and (iii) full authority and control of the defense and/or settlement of any such Losses.

**2.23 IP Claim Infringement Remedy.** If the event of an IP Claim, the Indemnifying Party shall, at Indemnifying Party's option and at no expense to the Indemnified Parties: (a) by license or other release from claim of infringement, obtain for the Indemnified Parties the right to use the product or service, as appropriate; (b) substitute an equivalent non-infringing product or service reasonably acceptable to the Indemnified Parties, and extend this indemnity thereto; or (c) modify the infringing product or service to make it non-infringing and extend this indemnity thereto.

**2.24 Exclusive Remedy for Indemnification.** The remedies set forth in this Section 13 (Indemnification) shall be the exclusive remedies of the Parties with reference to any claims for indemnification and IP Claims.

### **13. Limitation of Liability.**

**2.25 LIMITATION ON INDIRECT DAMAGES.** NEITHER OF THE PARTIES NOR THEIR LICENSORS SHALL BE LIABLE TO THE OTHER FOR INDIRECT, INCIDENTAL, PUNITIVE, EXEMPLARY, CONSEQUENTIAL, ECONOMIC, SPECIAL, INCIDENTAL OR EXEMPLARY DAMAGES (INCLUDING WITHOUT LIMITATION LOST PROFITS, LOSS OF BUSINESS REVENUE OR EARNINGS, LOST DATA, DAMAGES CAUSED BY DELAYS, OR A FAILURE TO REALIZE EXPECTED SAVINGS) DIRECTLY OR INDIRECTLY ARISING OUT OF OR IN CONNECTION WITH THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT, WHETHER OR NOT SUCH DAMAGES COULD REASONABLY BE FORESEEN OR THEIR LIKELIHOOD HAS BEEN DISCLOSED TO EITHER PARTY OR THEIR LICENSORS.

**2.26 LIMITATION ON DIRECT DAMAGES.** BOTH PARTIES SHALL BE LIABLE TO THE OTHER FOR DIRECT DAMAGES ONLY, IN AN AMOUNT NOT TO EXCEED, IN THE AGGREGATE FOR ALL CLAIMS, THE TOTAL AMOUNT OF REVENUE GENERATED UNDER THIS AGREEMENT IN THE MOST RECENT TWELVE (12) MONTH PERIOD FROM WHEN THE CLAIM AROSE.

**14. Customer Malpractice Insurance.** During the Term of the Agreement, Customer shall ensure that all End Users who are medical service providers have and maintain in force medical malpractice insurance with limits not less than those required under applicable law.

**15. Suspension.** Upon SimpleVisit's reasonable belief that criminal or otherwise improper activity may be associated with Customer's use of the Services, SimpleVisit may, without incurring any liability, temporarily suspend or discontinue Customer's use of the Services.

### **16. Termination.**

**2.27 Termination By Either Party.** A non-breaching Party may terminate this Agreement for cause by written notice to breaching Party upon the occurrence of any of the following events: (i)



the material breach by breaching Party of any term, provision, representation or warranty of this Agreement that remains uncured thirty (30) days after the non-breaching Party provides written notice thereof; (ii) a material breach of any of its intellectual property, Confidentiality or Data Security obligations; or (iii) Party becomes insolvent or subject to any proceeding under the federal bankruptcy laws or other similar laws for the protection of creditors, and such event continues for ninety (90) days after the non-breaching Party provides written notice thereof.

**2.28 SimpleVisit Termination.** SimpleVisit may terminate this Agreement for cause by written notice to Customer upon Customer's failure to pay any amounts due to SimpleVisit within fifteen (15) days following a Failure to Pay.

**2.29 Rights Upon Termination.** Upon termination of this Agreement by either Party:

- a) all Licenses granted hereunder shall terminate immediately and Customer shall discontinue all further promotion, marketing, and support of the Services;
- b) Each Party will promptly cease using and destroy or return to the other Party all items that contain any Confidential Information of the other Party;
- c) SimpleVisit shall immediately invoice Customer for any outstanding sums which may be owing and Customer immediately shall pay such invoices; and
- d) termination or expiration of this Agreement shall not release either party from: (i) any liability which has already accrued to the other Party hereto at the time of termination or expiration; (ii) any liability which thereafter may accrue with respect to any act or omission prior to termination or expiration; or (iii) any obligation which is expressly stated herein to survive termination or expiration.

## 17. General Provisions

**2.30 Publicity.** Neither Party shall issue a press release or make any similar public announcement without the other Party's prior written consent to the specific language and intended distribution of such press release or announcement. Notwithstanding the foregoing, the Parties agree to issue a joint press release so that both Parties can make reference to this in marketing and promotional material. SimpleVisit may use Customer's name and logo in SimpleVisit's customer lists which may be posted on SimpleVisit's website.

**2.31 Force Majeure.** Neither Party shall be liable to the other Party or shall be subject to termination of the Agreement by the other Party for any delay, nonperformance, loss or damage (other than for failure to pay any amount when due) because of reasons beyond its reasonable control including, but not limited to, acts of God, acts of government, floods, fires, earthquakes, civil unrest, acts of terror, strikes or other labor problems (other than those involving SimpleVisit employees), communication systems failures, internet service provider failures or delays, or denial of service attacks, war, riots, power failures, accidents in transportation or other causes beyond the reasonable control of the respective Party ("**Force Majeure**").

**2.32 Assignment.** This Agreement and the rights and obligations hereunder may not be assigned, delegated, sublicensed or transferred without the prior written consent of the other Party. Notwithstanding the foregoing, either Party shall be free to assign its rights and obligations hereunder (in whole or in part) to a successor or affiliate at any time or to a third party in connection with a sale by such Party of a part of its business to that third party provided that the assignee agrees to be bound by the terms and conditions of this Agreement.

**2.33 Subcontractors Permitted.** SimpleVisit may engage subcontractors to perform all or any portion of its duties under this Agreement provided that any such subcontractor agrees in writing to be bound by confidentiality obligations at least as protective as the terms of this Agreement regarding confidentiality, and provided further that SimpleVisit remains responsible for the performance of such subcontractors.

**2.34 Amendments.** No modification, amendment, supplement to or waiver of this Agreement or any of its provisions shall be binding upon the Parties hereto unless made in writing and duly signed by the Parties, provided, however, SimpleVisit may amend Exhibit B (Fee Schedule)

pursuant to Section 7.2 (Price Changes).

**2.35 Compliance with Laws.** Each Party agrees to abide by all local, state, national, and international laws and regulations applicable to such Party's performance under this Agreement, including, without limitation, all intellectual property and privacy laws.

**2.36 Miscellaneous Provisions.** A failure or delay of either Party to this Agreement to enforce any of the provisions of this Agreement shall in no way be construed to be a waiver of such provisions. In the event that any provision of this Agreement shall be held to be invalid, the remaining provisions of this Agreement shall be unimpaired and the invalid provisions shall be replaced by a mutually acceptable provision. The Parties agree that where the context of any provision indicates an intent that it shall survive the termination of this Agreement, then it shall so survive. This Agreement shall not create, or in any way be interpreted as a joint venture, partnership or formal business organization of any kind. Except as set forth in this Agreement, neither Party has the right to make commitments of any kind for the other Party. Under no circumstances shall any personnel of either Party be considered to be an employee or agent of the other Party. There are no intended third party beneficiaries of any provision of this Agreement. Damages shall be an inadequate remedy in the event of a breach by either Party to this Agreement and that any such breach by either Party will cause the other Party great and irreparable injury and damage. Accordingly, both Parties agree that the Party claiming breach shall be entitled, without posting a bond or waiving any additional rights or remedies otherwise available to it at law or in equity or by statute, to injunctive and other equitable relief. This Agreement constitutes the entire understanding between the Parties concerning the subject matter hereof and supersedes all prior discussions, agreements and representations, whether oral or written and whether or not executed by the Parties. All notices required hereunder shall be in writing and transmitted to the address for such Party as set forth in the Specifications. Notices shall be effective upon the date of confirmed delivery or at such time as delivery is refused by addressee upon presentation. The headings in this Agreement are for convenience only and are in no way intended to describe, interpret, define, or limit the scope, extent, or intent of this Agreement or any of its provisions. All personal pronouns used in this Agreement, whether used in the masculine, feminine or neuter gender, shall include all other genders, the singular shall include the plural, and vice versa, as the context may require. This Agreement shall be governed by the laws of the State of Maryland without regard to its conflict of laws provisions and the Parties hereby consent to suit in, and to the personal jurisdiction of the state courts located in Anne Arundel County, Maryland or the federal courts located in Baltimore, Maryland with respect to any matter arising out of this Agreement.

-- EXHIBITS FOLLOW ON NEXT PAGE --

**EXHIBIT A**  
**SERVICES DESCRIPTION**

SimpleVisit provides video visits as a managed services on behalf of qualified subscribers. All interactions are eligible for live, remote technical support within reasonable means.

Each video visit is to be scheduled by a representative of the subscribing organization using the methods provided by SimpleVisit (secure email, phone, online portal, integration). Availability is subject to call center operating hours. Appointment requests reserved for a time outside of the call center operating hours will be rejected. The subscription contact will be notified by email of any rejected appointments.

Call center hours of operation are listed as 8:00am to 8:00pm EST. Hours and availability are subject to change.

**EXHIBIT B  
FEE SCHEDULE**

**1. QUARTERLY SUBSCRIPTIONS**

- a. **STARTER PLAN:** starting at \$99 per month; billed in advanced monthly for a 3-month term. No install fee. Includes one contact and 10 appointments per month. Overage Rate \$15 per appointment.
- b. **STANDARD PLAN:** starting at \$299 per month. No setup fee. Includes one contact and 40 appointments per month. Overage Rate \$15 per appointment.
- c. **PLUS PLAN:** starting at \$599 per month. No setup fee. Includes one contact and 100 appointments per month. Overage Rate \$15 per appointment.
- d. **ADDITIONAL CONTACTS:** each unique Contact ID associated with a plan is rated at \$25 per month. Billed monthly.

**2. CUSTOM CONTRACTS**

- a. Custom contracts are available upon request and must be authorized by a principal of SimpleVisit.

**3. NOTES**

- a. Cancellation prior to the 3-month term will result in a fee equal to the remaining balance of that term.

**EXHIBIT C**  
**BUSINESS ASSOCIATE AGREEMENT**

**BUSINESS ASSOCIATE AGREEMENT**

This Business Associate Agreement (“Agreement”), is entered into as of the effective date set forth on the Signature Page of this Agreement (the “Effective Date”) between the Covered Entity and Telemerge, Inc. dba SimpleVisit with an address of 2144 Priest Bridge Ct., Suite 5, Crofton, MD 21114 (“Business Associate”) (each a “Party” and collectively the “Parties”).

**RECITALS**

The Parties have entered into a prior agreement for professional services (the “Underlying Agreement”). Performance of the Underlying Agreement may involve Protected Health Information (“PHI”) (as defined in 45 C.F.R. § 164.501) that is subject to the federal privacy and security regulations issued pursuant to the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”) and the regulations promulgated thereunder by the United States Department of Health and Human Services (“HHS”), codified at 45 CFR Parts 160 and 164 (commonly known as the Privacy and Security Rules), (collectively referred to herein as the “HIPAA Rules”). The purpose of this Agreement is to set forth the obligations of the Parties with respect to such PHI.

In consideration of the mutual promises below and the exchange of information pursuant to this Agreement, the parties agree as follows:

**I. Definitions.**

A. Protected Health Information or PHI. “Protected Health Information” or “PHI” shall have the same meaning as the term “Protected Health Information” in 45 C.F.R. §160.103, limited to the information created or received by Business Associate on behalf of or from Covered Entity. PHI will include PHI in electronic form (“Electronic PHI”) unless specifically stated otherwise.

B. Terms used but not otherwise defined in this Agreement shall have the same meaning as given to those terms in the Health Information Portability and Accountability Act of 1996, as codified at 42 U.S.C. §1320d (“HIPAA”), the Health Information Technology Act of 2009, as codified at 42 U.S.C.A. prec. §17901 (“HITECH”), and any current and future regulations promulgated under either HIPAA or HITECH.

**II. Business Associate’s Obligations.**

A. Relationship of Parties. In providing these services, Business Associate will be acting as an independent contractor and not as an employee or agent of Covered Entity. Covered Entity shall have no authority, express or implied, to commit or obligate Business Associate in any manner whatsoever.

B. No Permitted Use or Disclosure of PHI. Business Associate shall not use or disclose PHI other than as permitted or required by the Agreement or as required by law.

C. Safeguards. Business Associate shall use appropriate safeguards, and comply with Subpart C of 45 CFR Part 164 with respect to Electronic PHI, to prevent use or disclosure of PHI other than as provided for by the Agreement.

D. Notice to Covered Entity: Business Associate agrees to report to Covered Entity any use or disclosure of PHI not provided for in the Agreement, any Security Incident involving electronic PHI, and any Breach of Unsecured PHI as required at 45 CFR 164.410. Such report shall be provided promptly and without unreasonable delay, but no later than 60 days after Business Associate first learns of the unauthorized use or disclosure, Security Incident or Breach.

E. Subcontractors. Business Associate agrees to ensure that any Subcontractors that create, receive, maintain, or transmit PHI on behalf of the Business Associate agree to the same restrictions, conditions, and requirements that apply to the Business Associate with respect to such information, in accordance with 45 CFR §§ 164.502(e)(1)(ii) and 164.308(b)(2).

F. Access to PHI. To the extent that Business Associate possesses an applicable Designated Record Set, and within a reasonable amount of time of receipt of a request from Covered Entity or Individual to access such PHI, Business Associate shall make available such PHI, to the extent required for Covered Entity's compliance with its obligations under 45 C.F.R. §164.524.

G. Amendment of PHI. To the extent that Business Associate possesses an applicable Designated Record Set, and within a reasonable amount of time of receipt of a request from Covered Entity or Individual, Business Associate shall make any amendment(s) to such PHI as directed or agreed to by the Covered Entity pursuant to 45 CFR § 164.526, or take other measures as necessary to satisfy covered entity's obligations under 45 CFR § 164.526

H. Accounting. Business Associate shall document and make available such disclosures of PHI as would be required for Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. §164.528.

I. Compliance with Covered Entity Obligations. To the extent the Business Associate is to carry out one or more of Covered Entity's obligation(s) under Subpart E of 45 CFR Part 164, Business Associate shall comply with the requirements of Subpart E that apply to the Covered Entity in the performance of such obligation(s).

J. Availability of Compliance Records. Business Associate shall make its internal practices, books, and records available to the Secretary for purposes of determining compliance with the HIPAA Rules. Business Associate shall also promptly provide Covered Entity with a copy of any PHI that Business Associate provides pursuant to any governmental inquiry.

K. Mitigation. Business Associate shall mitigate, to the extent practicable and at its cost, any harmful effects from any use or disclosure of PHI by Business Associate not permitted by this Agreement, regardless of Business Associate's fault or negligence. All such efforts shall be subject to the Covered Entity's prior written approval.

L. Prohibition on Certain Uses and Disclosures. Business Associate shall not use or disclose PHI for any purpose other than as specifically permitted by this Agreement. Specifically, but without limitation, Business Associate shall not use or disclose PHI for fundraising or marketing purposes, and shall not directly or indirectly receive remuneration in exchange for PHI (which does not affect payment from Covered Entity for Business Associate's services).

### III. Permitted Use and Disclosure of PHI.

A. Business Associate may only use or disclose PHI as necessary to perform its obligations and functions under the Underlying Agreement, or as required by law.

B. Business Associate may not use or disclose PHI in a manner that would violate Subpart E of 45 CFR Part 164 if done by Covered Entity, except for the specific uses and disclosures set forth below:

1. For the proper management and administration of Business Associate or to carry out its legal responsibilities;
2. For the proper management and administration of Business Associate or to carry out the legal responsibilities of the Business Associate, provided the disclosures are required by law, or Business Associate obtains reasonable assurances from the person to whom the information is disclosed that the information will remain confidential and will be used or further disclosed only as required by law or for the purposes for which it was disclosed to the person, and the person notifies Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached.

### IV. Term and Termination.

A. Term. This Agreement shall become effective on the date of execution of the Underlying Agreement, and shall terminate at the time of the termination or expiration of all Underlying Agreements.

B. Termination for Cause. If Covered Entity reasonably determines that Business Associate has materially breached this Agreement, Covered Entity shall:

1. Provide Business Associate with 10 days written notice of the alleged material breach and an opportunity to cure the breach, immediately after which time this

Agreement and the Underlying Agreement shall be automatically terminated if the breach is not cured; or

2. Immediately terminate this Agreement and the Underlying Agreement if cure is not possible; or
3. Report the violation to the Secretary if neither termination nor cure is feasible.

C. Termination for Change in Law. If a change in law causes the performance of the Agreement to violate the law, Business Associate and/or Covered Entity shall terminate this Agreement if cure is not possible.

D. Effect of Termination. Upon termination or expiration of this Agreement, Business Associate shall, at Covered Entity's option, return to Covered Entity or destroy all PHI in Business Associate's possession. Business Associate shall not retain any copies of the PHI, unless the retention of PHI is necessary for Business Associate to continue its proper management and administration or to carry out its legal responsibilities. The obligations of Business Associate under this Section shall survive the termination of this Agreement.

#### V. Miscellaneous.

A. Amendments. The Agreement may not be modified, nor shall any provision hereof be waived or amended, except in a writing duly signed by authorized representative of the Parties. The Parties shall amend this Agreement from time to time as is necessary to achieve and maintain compliance with the requirements of the HIPAA Rules and any other applicable law.

B. Interpretation. Any ambiguity in this Agreement shall be resolved to permit the Parties to comply with the requirements of the HIPAA Rules and any other applicable law.

C. Choice of Law. This Agreement shall be governed by the laws of the State of Maryland without regard to conflict of laws principles thereof.

D. Audits, Inspection and Enforcement. Upon request and with reasonable prior notice by Covered Entity, Business Associate and its agents shall allow Covered Entity to conduct a reasonable inspection of the facilities, systems, books, records, agreements, policies and procedures relating to the use or disclosure of PHI pursuant to this Agreement or for the purpose of determining whether Business Associate is in compliance with its obligations under this Agreement.

E. Relationship to Agreements with Covered Entity. In the event that a provision of this Agreement is contrary to a provision of any agreement with Covered Entity pertaining to Business Associate's services, the provisions of this Agreement shall control.