



MASTER SERVICES AGREEMENT

THIS MASTER SERVICES AGREEMENT (“AGREEMENT”) IS A LEGAL BINDING AGREEMENT ENTERED INTO BY AND BETWEEN LIONETTI CONSULTING (“COMPANY”) AND THE ENTITY YOU REPRESENT (“CLIENT”), INCLUDING ANY AFFILIATES. COMPANY AND CLIENT MAY BE HEREINAFTER REFERRED TO INDIVIDUALLY AS A “PARTY” AND COLLECTIVELY AS THE “PARTIES”. THIS AGREEMENT GOVERNS THE PRODUCTS AND SERVICES PROVIDED BY COMPANY TO CLIENT AND THE TERMS AND CONDITIONS OF THIS AGREEMENT ARE INCORPORATED INTO ANY SUBSEQUENT STATEMENT OF WORK (“SOW”) ENTERED INTO BY THE PARTIES. BY EXECUTING A SOW, YOU AGREE TO BE BOUND BY THE TERMS OF THIS AGREEMENT. IN THE EVENT THERE IS A CONFLICT IN TERMS BETWEEN THIS MSA AND THE SOW, THE TERMS OF THE SOW SHALL CONTROL.

Article 1: Definitions

Section 1.1. “Affiliate” means any entity that controls, is controlled by, or is under common control with a Party. For purposes of this Agreement, “control” means possessing, directly or indirectly, the power to direct or cause the direction of management, policies, or operations of an entity, whether through ownership of voting securities, by contract, or otherwise.

Section 1.2. “Product(s)” means any hardware, software, documentation, accessories, cabling, material, supplies, parts, and other goods provided by the Company or any third party acting on behalf of or at the request of the Company.

Section 1.3 “Services” means specific consulting, network management, telecommunications, privacy and/or security assessments, or business process outsourcing services, or other related services, requested by Client from the Company.

Article 2: Products and Services

Section 2.1. **Agreement to Provide Products and Services.** COMPANY will provide CLIENT with those Products and Products and Services pursuant to the terms, conditions, and at the prices listed on each SOW appended to this Agreement and executed by the Parties. Any change in the Products and Products and Services must be mutually agreed upon and memorialized in writing by the Parties in an amendment to an existing SOW or a new SOW.

Section 2.2. **Technology.** If required in order to provide the Products and Services, CLIENT must, at its sole expense, provide COMPANY with access to the CLIENT’s platform to allow COMPANY real-time, automated, electronic access to any information required for COMPANY to provide the Products and Services. CLIENT may provide this access through any means or platform mutually agreed upon by CLIENT and COMPANY (“Provision of Documentation”).

Section 2.3. **Provision of Products and Services; Resources.** COMPANY will provide Products and Services to CLIENT using COMPANY’s employees and subcontractors. Any person or entity providing Products and Services under this Agreement is a “Resource”.

Section 2.4. Independent Contractor Relationship. COMPANY and the Resources are independent contractors of CLIENT at all times during the Term. Among other things, this means the following: any Resources are and must remain employees of COMPANY or its Subsidiaries or subcontractors of COMPANY or its Subsidiaries. Under no circumstances are those employees or subcontractors CLIENT's subsidiaries, employees, subcontractors, or agents. COMPANY and its Resources are not eligible for coverage under, and must not make claims arising under, CLIENT's unemployment insurance, worker's compensation insurance, or any form of employee benefits. COMPANY is responsible for the normal responsibilities of an employer toward the Resources including, without limitation, Social Security, income, and payroll taxes. Nothing in this Agreement creates any agency, partnership, joint venture, or other joint enterprise relationship between the Parties. Neither Party has the authority to contract for nor bind the other Party in any manner.

Article 3: Company Obligations

Section 3.1. Standard of Performance. COMPANY must perform Services using Resources of required skill, experience, and qualifications in a professional and workmanlike manner in accordance with commercially reasonable industry standards. COMPANY must devote adequate resources to meet its obligations under this Agreement.

Section 3.2. Licenses and Permits. Throughout the Term of this Agreement and the term of any SOW entered into pursuant to this Agreement, COMPANY will maintain all necessary licenses and permits necessary to provide Products and Services.

Article 4: CLIENT Obligations

Section 4.1. CLIENT Provisions. To the extent required in order for COMPANY to provide the Products and Services, CLIENT must provide adequate workspace, appropriate access to records, systems, policies, guidelines, facilities, and other relevant documents, information, and resources as required in this Agreement in order for COMPANY to be able to provide the Products and Services. CLIENT must promptly respond to COMPANY's request for direction, information, approvals, authorization, or decisions that COMPANY reasonably requires to perform Products and Services. CLIENT excuses COMPANY from performance (with no reduction in Fees) to any extent that a delay or failure is caused by any act or omission of CLIENT or CLIENT's failure to adhere to this Agreement.

Article 5: Term and Termination

Section 5.1. Term

- (a) **Term of Agreement.** This Agreement is effective and binding upon the Parties as of the Effective Date of the first executed SOW and shall remain in effect so long as at least one active SOW remains in effect.
- (b) **Term of each SOW.** The term of each SOW entered into pursuant to this Agreement shall be set forth in each applicable SOW.

Section 5.2. Termination

- (a) **Termination of Agreement.** This Agreement will automatically terminate upon termination of the last SOW executed by the Parties.

- (b) **Termination of a SOW.** If not otherwise stated in the SOW, either Party may terminate a SOW by providing written notice of termination to the other Party at least 30 days prior to the effective date of termination.
- (c) **Permitted Termination for Uncured Breach.** Either Party may terminate this Agreement immediately if the other Party breaches a material term of this Agreement; but, the non-breaching Party must first give the breaching Party prompt notification of such breach and 30 days, or any longer period agreed between the Parties, to cure the alleged breach.
- (d) **COMPANY Termination for Certain Breaches.** COMPANY may immediately terminate this Agreement if CLIENT breaches a term in this Agreement related to intellectual property or confidentiality.
- (e) **Termination for Bankruptcy.** Either Party may immediately terminate this Agreement and any SOW if the other Party files for bankruptcy, reorganization, liquidation or receivership proceedings, or upon an assignment of a substantial portion of the assets for the benefit of creditors.
- (f) **Payment of Fees.** In the event this Agreement or any SOW under this Agreement sets forth prepaid fees or project fees (i.e., a flat fee quoted for a project regardless of payment schedule), but excluding hourly fees or fees charged on an “as needed” basis, and the Agreement or SOW is terminated prior to the conclusion of the services for any reason other than breach or bankruptcy, then CLIENT shall forfeit any prepaid fees or shall be responsible for the balance of any project fees not yet paid.

Article 6: Financial Terms

Section 6.1. Compensation to COMPANY. CLIENT must pay COMPANY all fees specified in a SOW, including any taxes that COMPANY may be obligated to collect from CLIENT for the Products and Services (the “Fees”).

Section 6.2. Terms of Payment; Suspension of Products and Services. Unless otherwise provided in the applicable SOW, CLIENT must pay the Fees within 30 days after the date of the invoice. Any balance unpaid 30 days after the date of the invoice bears interest, at a rate of the lesser of 1.5% per month compounded monthly or the maximum percentage permitted by law, until paid. In addition, COMPANY may, in its sole discretion, suspend Products and Services if CLIENT fails to pay any invoice as required by this Agreement. Additionally, if COMPANY suspends the Products and Services under this provision, then, in addition to its other remedies, it has no obligation to resume providing the Products and Services unless CLIENT pays all outstanding invoices. COMPANY shall be entitled to recover its attorneys’ fees, court costs and other expenses incurred in connection with the collection of amounts due hereunder.

Section 6.3. Payment Mechanics. Except as otherwise set forth in an applicable SOW, CLIENT must pay COMPANY all Fees owed via check, wire payment, or electronic funds transfer to the account designated in writing by COMPANY.

Article 7: Intellectual Property

Section 7.1. Intellectual Property. The Products and Services are protected by applicable United States and international intellectual property laws. Except as may be set forth in a SOW entered into pursuant to this Agreement, COMPANY and its Subsidiaries or their licensors (as applicable) are and will remain the sole and exclusive owners of all right, title, and interest in the Confidential Information (as

herein defined), the pre-existing materials associated with the Products and Services (including documents, know-how, software, etc.), and any and all intellectual property rights associated with the Products and Services and any deliverables resulting from the Products and Services (including patents, inventions, trademarks, service marks, goodwill, copyrights, trade secrets, database rights, etc., whether registered or unregistered, anywhere in the world). COMPANY and its Subsidiaries or their licensors (as applicable) will also be the exclusive owners of all modifications, adaptations, and derivatives of the Products and Services. Except as provided herein or in any applicable SOW, CLIENT has no, and is not granted any, right, title, interest, or license in the Products and Services. Publishing any portion of any report (if any) resulting from the Products and Services is forbidden without the prior written consent of COMPANY. All rights not specifically granted by this Agreement are reserved by COMPANY, its Subsidiaries and their licensors (as applicable).

Section 7.2. Trademarks and Tradenames. This Agreement does not grant either Party a license to use any trademark, trade name, or logo of the other Party. Each Party recognizes that the trademarks, trade names, and logos of the other Party represent valuable assets of that Party and that substantial recognition and goodwill are associated with the trademarks, trade names, and logos. Neither Party is permitted to use or permit any third party to use, at any time, the other Party's trademarks, trade names, or logos. But, as an exception to the remainder of this Section, COMPANY may use CLIENT's name and logo in its marketing materials.

Article 8: Confidentiality

Section 8.1. COMPANY's Confidential Information. The Parties agree that COMPANY has developed, at its own expense, valuable technical and non-technical business and trade secrets, and other confidential information including, without limitation, information pertaining to the Products and Services, written materials, know-how, processes, and techniques (including computer software and related products), marketing strategies and related data, CLIENT lists, financial information (including prices under this Agreement), and personnel; these all constitute "Confidential Information" under this Agreement. COMPANY has protected the disclosure and release of Confidential Information to third persons and intends that the information continue to be kept confidential. To this end, any Confidential Information which may be disclosed to CLIENT as part of the Products and Services does not constitute a waiver for the release or disclosure of the Confidential Information by CLIENT to any other party or entity without the express, prior written consent of COMPANY.

Section 8.2. CLIENT's Confidential Information. The Parties agree that, during the course of providing the Products and Services, COMPANY may have access to information concerning the COMPANY of CLIENT or information relating to its operations, coding, billing, patients, staff, or internal processes that may reasonably be considered confidential and proprietary ("CLIENT Confidential Information"). COMPANY must protect the CLIENT Confidential Information and treat it as confidential. COMPANY must take reasonable security precautions, at least as great as the precautions it takes to protect its own Confidential Information, but in no event less than reasonable care, to keep confidential the CLIENT Confidential Information. COMPANY may disclose CLIENT Confidential Information or materials to its Subsidiaries, employees or subcontractors (whether or not Resources) on a need-to-know basis. COMPANY and its Subsidiaries, employees, and subcontractors must not divulge, disclose, or communicate in any manner CLIENT Confidential Information to any third party without the prior written consent of CLIENT. But, if COMPANY or any of its Subsidiaries is required by a valid legal order or subpoena to disclose any CLIENT Confidential Information, COMPANY may disclose the CLIENT Confidential Information if, before the disclosure, COMPANY notifies CLIENT of these requirements so that CLIENT can seek a protective order or other remedy at its own cost and expense.

Article 9: Representations and Warranties

Section 9.1. Disclaimer. OTHER THAN THE REPRESENTATIONS AND WARRANTIES EXPLICITLY PROVIDED IN THIS AGREEMENT, COMPANY AND ITS SUBSIDIARIES AND THEIR DIRECTORS, OFFICERS, SHAREHOLDERS, LICENSORS, SUBCONTRACTORS, AND AGENTS (“COMPANY PARTIES”), TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, EXPRESSLY DISCLAIM ANY AND ALL OTHER REPRESENTATIONS, WARRANTIES OR CONDITIONS, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, WITH RESPECT TO THE PRODUCTS AND SERVICES. PRODUCTS AND SERVICES ARE PROVIDED “AS-IS”. NEITHER COMPANY NOR ANY COMPANY PARTY WARRANTS THAT THE SERVICES WILL BE UNINTERRUPTED. CLIENT’S USE OF THE SERVICES IS ENTIRELY AT CLIENT’S OWN RISK AND COMPANY AND EACH COMPANY PARTY SHALL HAVE NO LIABILITY OR RESPONSIBILITY THEREFOR.

Section 9.2. CLIENT Representations and Warranties. CLIENT represents and warrants to COMPANY that this Agreement: (i) was executed by an authorized signatory of CLIENT with the authority granted by the governing body of the CLIENT to enter into binding agreements on behalf of CLIENT, and (ii) binds the CLIENT.

Article 10: Liability (Indemnification and Limitation of Liability)

Section 10.1. CLIENT Acceptance. CLIENT irrevocably waives any objection to the quality of Products and Services unless it objects in writing to the specific Products and Services within 30 days of receiving the Products and Services.

Section 10.2. Indemnification. Each Party must indemnify the other Party from Covered Damages arising from Claims.

- (a) **Indemnification Definitions.** The Party providing indemnification is the “Indemnifying Party,” the Party receiving the indemnification (and each of its parents, subsidiaries, Subsidiaries, officers, directors, partners, employees, agents, and representatives and each of their permitted successors and assigns) is the “Protected Party.” “Claim” means direct and provable costs, expenses, penalties, fines, and other judgments (at equity or at law) and damages (including, without limitation, amounts paid in settlement, costs of investigation, and reasonable attorneys’ fees and expenses). “Covered Damages” are Claims arising from third party allegations arising out of or relating to Indemnifying Party’s breach of any representation, warranty, covenant, agreement, or undertaking in this Agreement, or a violation of law. Covered Damages for each Party does not include any Claims arising from such Party’s own violation of law or bad faith failure to perform its obligations under this Agreement.
- (b) **Indemnification Procedures.** The Party seeking to become a Protected Party must promptly assert to the Indemnifying Party in writing any circumstance in which the Indemnifying Party has liability under this Article. The Protected Party’s failure to perform its obligations under this Section does not relieve the Indemnifying Party of its obligations except to the extent the Indemnifying Party can demonstrate it was materially prejudiced as a result of the failure. If any such action or other proceeding shall be brought against any Protected Party, Indemnifying Party shall, upon written notice given within a reasonable time following receipt by Indemnifying Party of such notice from Protected Party, be entitled to assume the defense of such action or proceeding with counsel chosen by Indemnifying Party and reasonably satisfactory to Protected Party, but any Protected Party may

at its own expense retain separate counsel to participate in such defense.

Section 10.3. Duty to Defend. After receiving proper notice, the Indemnifying Party must immediately take control of the defense and investigation of the matter and must employ counsel of its choice to handle and defend the matter, at no expense to the Protected Party. The Protected Party may participate in and observe the proceedings at its own expense. The Indemnifying Party must not settle any matter in a way that adversely affects the rights of the Protected Party without the Protected Party's written consent, which must not be unreasonably withheld or delayed.

Section 10.4. Limitation of Liability. CLIENT's exclusive remedy under this Agreement and COMPANY's sole liability to CLIENT under this Agreement, if any, is limited to (in COMPANY's discretion) either the re-performance of Products and Services by COMPANY, as applicable, or a refund of the Fees paid by CLIENT for the specific Products and Services which are the basis of CLIENT's claim (which refund may in no circumstances exceed the aggregate fees paid to COMPANY by CLIENT in the 3 months preceding the claim). To the maximum extent permitted by applicable law, in no event is COMPANY liable for: (i) any damages arising out of or related to the failure of CLIENT to perform its responsibilities under this Agreement; (ii) any claims or demands of third parties (other than those third party claims covered by this Article 10); or (iii) any lost profits, loss of COMPANY, alteration, destruction, loss of data or information, loss of inputs, loss of use or inability to use, lost savings, loss of goodwill, COMPANY interruption, or any special, incidental, indirect, consequential, punitive, or exemplary damages whatsoever arising out of the Products and Services, whether based upon contract, warranty, tort, negligence, strict liability or otherwise, even if COMPANY has been advised of the possibility of those damages. CLIENT acknowledges and agrees that the provisions of this Article are a material condition precedent to COMPANY's agreement to enter into this Agreement. The exclusions and limitations of this Section will not apply to damages or other liabilities arising out of or relating to a Party's gross negligence, willful misconduct or intentional acts.

Article 11: Non-Solicitation

Section 11.1. Mutual Non-Solicitation. Without the prior written consent of the other Party, during the Term and for a period of one year after the Term, each Party will not, directly or indirectly, by itself or through others, solicit for employment or hire any subsidiaries, employees, or subcontractors (each a "Restricted Party") of the other Party, or otherwise induce any of those Restricted Parties to terminate their relationship with the other Party. This provision does not apply to solicitations and resulting hires of Restricted Parties originating from a good faith, bona fide general employment posting. A Party that breaches this provision shall pay liquidated damages to the other Party equal to 50% of the aggregate compensation paid to the Restricted Party by the non-breaching Party in the 12 months preceding the solicitation. This payment constitutes liquidated damages and not a penalty. The Parties agree that actual damages resulting from the improper solicitation are not readily ascertainable at this time, and these liquidated damages are reasonable under the circumstances.

Article 12: Governing Provisions

Section 12.1. Governing Law. This Agreement will be construed pursuant to the laws of the State of California and, to the extent applicable, the laws of the United States.

Section 12.2. No Third-Party Rights. This Agreement has been made and is made solely for the benefit of the Parties. Nothing in this Agreement is intended to relieve or discharge the obligation or liability of any third persons to any Party.

Section 12.3. Severability. If any particular term or condition of this Agreement shall be adjudicated or becomes by operation of law invalid or unenforceable, this Agreement shall be deemed amended to delete from this Agreement the portion which is adjudicated, or which becomes by operation of law invalid or unenforceable. The remainder of this Agreement shall remain in full force and effect.

Section 12.4. Statutes and Regulations; Compliance with Applicable Law. Any citation in this Agreement to any legal authority includes and refers to that legal authority as amended from time to time. Both Parties intend for that this Agreement to be and remain in strict compliance with all federal, state and local rules, statutes, regulations and ordinances (“Governing Laws”). If either Party determines that the terms of this Agreement or the performance of Products and Services and duties under this Agreement does or may violate any one or more Governing Laws, then the Party must immediately give written notice to the other Party. The Parties must then immediately negotiate in good faith to modify the terms of this Agreement to remain in compliance with all Governing Laws.

Section 12.5. Force Majeure. Neither Party is liable for any delay, failure, or modification in the performance of any obligation under this Agreement (other than the payment of Fees) or for any loss or damage to the extent that such nonperformance, delay, loss, or damage results from any contingency which is beyond the control of the Party, but only if the contingency is not caused by the fault or negligence of the Party. A contingency includes acts of God, fires, floods, earthquakes, explosions, storms, wars, hostilities, blockades, public disorders, pandemics, quarantine restrictions, embargoes, strikes or other labor disturbances, or terrorist acts, and compliance with any law, order, or control of or insistence by any governmental or military authority. The Party claiming to be affected by the contingency must give immediate notice to the other Party explaining the contingency and use all commercially reasonable efforts to remedy the contingency as soon as possible.

Section 12.6. Assignment. Unless otherwise expressly provided in this Agreement, neither Party may assign its rights or delegate its duties under this Agreement. But either Party may assign its rights under this Agreement to an Affiliate, subsidiary or successor-in-interest (including during a change of control transaction) without the prior written consent of the other Party as long as the Party takes reasonable efforts to notify the other Party promptly after the assignment. If properly assigned, then this Agreement binds the permitted successors and permitted assigns. Notwithstanding the foregoing, COMPANY may delegate all or a portion of its duties hereunder to an affiliate or subsidiary of COMPANY which is under common control of COMPANY, provided, however, that any such delegation of duties shall not relieve COMPANY of its obligation to discharge its duties hereunder and COMPANY shall remain responsible for performance of the duties of COMPANY hereunder.

Section 12.7. Injunctive Relief. Each Party acknowledges that a violation of this Agreement would cause irreparable harm to the other Party for which no adequate remedy at law exists and each Party therefore agrees that, in addition to any other remedies available, the aggrieved Party shall be entitled to seek injunctive relief to enforce the terms of this Agreement.

Section 12.8. Amendments. Any modification to the terms of this Agreement must be in writing signed by both Parties.

Section 12.9. No Waiver. No waiver of or failure by either Party to enforce any of the provisions, terms, conditions, or obligations in this Agreement waives a Party’s rights regarding any subsequent breach of such provision, term, condition, or obligation, or of any other provision, term, condition, or obligation under this Agreement, whether the same or different in nature. No extension of time for performance of any obligations or acts the time for the performance of any other obligations or acts.

Section 12.10. Attorneys' Fees. If court proceedings are required to enforce any provision or to remedy any breach of this Agreement, the prevailing party on the claim is entitled to an award of reasonable expenses from the non-prevailing party (including, without limitation, reasonable attorneys' fees, litigation costs, court costs, experts' fees and amounts paid in investigation, defense or settlement of any claims, and whether or not such expenses are incurred at the trial, appellate or administrative levels, or upon any other petition for review).

Section 12.11. Notice. All notices or other communications required or permitted to be given under this Agreement to COMPANY must be in writing via email sent to _____. The notice is deemed delivered and received the COMPANY the day after it was delivered to COMPANY's inbox. COMPANY may send notices to CLIENT at the address provided in an SOW.

Section 12.12. Survival. All provisions hereof that by their nature are to be performed or complied with following the expiration or termination of this Agreement shall survive the termination of this Agreement.