

## TERMS OF SERVICE - COALA HEART MONITOR

These Coala Heart Monitor (“Coala”) Terms of Service (“**Agreement**”) are a contract between you (“**you**”) and Coala Life, Inc. (“**Coala Life**”, “**we**” or “**us**”), a Delaware corporation with a place of business at 3333 Michelson Dr, Irvine, 92612, CA, USA. You must read, agree with and accept all of the terms and conditions of this Agreement in order to use the Coala system, including the associated Software (collectively, the “**Licensed Product**”) and to receive certain Subscription Services related to the Licensed Product. These Terms are effective upon your first access and use of the Licensed Product (“**Effective Date**”).

BY AGREEING TO THESE TERMS ON BEHALF OF A LEGAL ENTITY: (A) YOU REPRESENT AND WARRANT THAT YOU HAVE THE AUTHORITY TO BIND THAT ENTITY AND ANY REPRESENTATIVES IT ALLOWS TO ACCESS THE LICENSED MATERIALS OR TO PROVIDE SERVICES VIA THE LICENSED MATERIALS TO THESE TERMS; (B) SUCH ENTITY IS RESPONSIBLE FOR ANY BREACH OF THIS AGREEMENT BY ANY OF ITS REPRESENTATIVES; AND (C) “YOU” AND “YOUR” AS USED HEREIN WILL REFER AND APPLY TO THAT ENTITY AND THE PERSONS THAT ACCESS THE LICENSED MATERIALS ON ITS BEHALF.

**1. Definitions.** Capitalized terms used in this Agreement are defined as set forth below or in the text within which the term appears.

**1.1. “Data”** means the full disclosure data input into, used by, and output from the Licensed Product.

**1.2. “Data Services”** means the data services described in Subscription Services section.

**1.3. “De-Identified Data”** means data that does not (1) identify, directly or indirectly, a specific individual (i.e., natural person); (2) cannot be manipulated by a reasonably foreseeable method to identify a specific individual, and (3) cannot be linked with other available information to identify a specific individual. “De-Identified Data” may include health information that meets the standard and implementation specifications for de-identification under 45 C.F.R. § 164.514 (a) and (b).

**1.4. “Device”** means the hardware device(s) provided by Coala Life on consignment to you as described in your Order(s).

**1.5. “Documentation”** means all manuals, handbooks, written reports and other written or on-line materials which are supplied by Coala Life in connection with the operation of the Licensed Products.

**1.6. “Fees”** means the fees for the use of the Licensed Materials and any Subscription Services.

**1.7. “Initial Service Date”** is defined as the date that the Devices are activated with a Patient.

**1.8. “Intellectual Property Rights”** means patents, utility models, rights to inventions, copyright and related rights, trademarks and service marks, trade names and domain names, rights in get-up, goodwill and the right to sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, rights to preserve the confidentiality of information (including know-how and trade secrets) and any other intellectual property rights, including all applications for (and rights to apply for and be granted), renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist, now or in the future, in any part of the world.

**1.9. “Licensed Materials”** means the following items delivered by Coala Life pursuant to an Order under this Agreement: Consignment stock of Coala Heart Monitor device, The Licensed Software and Documentation, along with enhancements, revisions, modifications, and derivative works made thereto by Coala Life and all other items provided under license by Coala Life under this Agreement.

**1.10. “Licensed Product”** means the Coala system, including the Licensed Software and Coala Heart Monitor device.

**1.11. “Licensed Software”** means the Software associated with the Coala system, excluding the Coala Heart Monitor device.

**1.12. “Maintenance Services”** means the maintenance services on Licensed Software described in Subscription Services section.

**1.13. “Order”** means a Coala Life order form signed by you pursuant to which you obtain access to the Licensed Product and receive Subscription Services.

**1.14. “Patient”** means when a new patient account is created in the Coala Care system enabling the activation of a Coala Heart Monitor for temporary use

**1.15. “RMA Process”** means Coala Life’s standard return merchandise authorization process.

**1.16. “Subscription Services”** means the Maintenance Services on Licensed Software and Data Services provided by Coala Life under this Agreement described in Subscription Services section.

**1.17. “Software”** means a computer program, in machine readable or object code form (and not in source code form), consisting of a set of logical instructions and tables of information that guide the functioning of a processor. Such program may be contained in any medium whatsoever, including firmware, representing such program, but does not include such medium.

**1.18. “Term”** means the period beginning on the Effective Date and continuing until the expiration or termination of the License Term.

**1.19. “Third party Software”** means, separately or collectively, as the case may be, computer programs not owned by Coala Life but included in the Licensed Product.

**1.20. “Trial Period”** means a 30-day period, or other period as identified on the applicable Order that provides for termination of convenience at any time as set in the terms of the Order. Devices must be returned using the RMA Process.

**2. License Grant.** Subject to the terms and conditions of this Agreement, and upon activation of Patient in the Coala system, Coala Life grants you a limited, revocable, non-exclusive, non-transferable (except as expressly provided in this Agreement), non-assignable (except as expressly provided in this Agreement), and non-sublicensable license to access, use, and operate the Licensed Materials identified in the applicable Order, using the Device(s) provided by Coala Life as identified on such Order, and for your own internal business purposes during the Term (the “**License**”).

**3. Device.** Subject to the terms and conditions of this Agreement, Coala Life agrees to provide you a consignment stock of Coala Heart Monitor units to enable the use of the Coala system, or as otherwise agreed in the Order.

**4. License Restrictions.** You acknowledge that the Licensed Materials and their structure, organization, and source code constitute trade secrets of Coala Life and its suppliers. Except as expressly permitted, you shall not, and shall not permit any third party, to (i) modify, adapt, alter, translate, or create derivative works from the Licensed Materials; (ii) merge the Licensed Materials with other software; (iii) sublicense, export, sell, provide for service bureau use, lease, rent, loan, distribute, or otherwise transfer the Licensed Materials to any third party; (iv) reverse engineer, decompile, disassemble, or otherwise attempt to derive the source code for the Licensed Materials; (v) remove or alter any copyright notices or other notices included in the Licensed Materials; (vi) otherwise use or copy the Licensed Materials except as expressly permitted; or (vii) use the Licensed Materials for any illegal activity or malicious attack. Without limiting the foregoing, your use of the Licensed Materials set forth in this Section shall apply to any Third-Party Software licensed to Coala Life by third parties and included with the Licensed Materials. For purposes of this Section, the term “use” shall mean the right to run, execute and display the Licensed Materials in executable form only.

Unless expressly stated otherwise, all licenses to Software provided by Coala Life under this Agreement are to machine-readable object code. No license is granted by Coala Life in the source code of any Software.

You may use the Licensed Materials only in accordance with this Agreement and the parameters specified in the applicable Order(s) accepted by Coala Life under this Agreement.

You shall be solely responsible to Coala Life for the observance and compliance with all terms and conditions of this Agreement by your employees, agents, contractors, and any other third party who has been permitted access to the Licensed Materials as a result of your action or inaction, whether or not such party is actually permitted to have such access under the terms of this Agreement.

## 5. Ownership.

**5.1. Coala Life.** All right, title, interest, ownership, and Intellectual Property Rights in and to the Licensed Materials and all copies, modifications, enhancements, and derivative works of the Licensed Materials vest in and belong to Coala Life and/or its suppliers. This Agreement confers no title or ownership in the Licensed Materials or any copies, modifications, enhancements, or derivative works of the Licensed Materials and is not a sale of any rights. The structure, organization, and code included in the Licensed Materials are the valuable trade secrets and confidential information of Coala Life and/or its suppliers and constitute Coala Life Proprietary Information. The Licensed Materials are protected by law, including without limitation the copyright laws of the United States and other countries, and by international treaty provisions. Except as expressly stated herein, this Agreement does not grant you any rights in the Licensed Materials or any copies, modifications, enhancements, and derivative works of the Licensed Materials. You agree that you will not take any action that jeopardizes Coala Life's proprietary rights or acquire any right in the Licensed Materials, including any actions in violation of Section 4 (License Restrictions). You hereby assign and shall assign any rights you have or may have in any modifications, enhancements, and derivative works of the Licensed Materials that are made by you, whether such modifications, enhancements, and derivative works of the Licensed Materials are permitted by this Agreement or not. If required, you specifically agree that you will obtain, at Coala Life's reasonable request, the execution of any instrument that may be appropriate to assign these rights to Coala Life or perfect these rights in Coala Life's name. Coala Life's rights to modifications and enhancements of the Licensed Materials are not an implied license to you to make any modifications or enhancements to the Licensed Materials.

**5.2. You.** As between you and Coala Life, you shall be the owner of all Data, provided that you hereby grant to Coala Life a perpetual, irrevocable, non-exclusive, non-transferable (except as expressly provided in this Agreement), non-sublicensable (except as expressly provided in this Agreement), royalty-free, world-wide license to (i) access, use, copy, and display Data for Coala Life's internal purposes related to the provision of the Licensed Materials and Subscription Services; (ii) process Data to create De-Identified Data derived from such Data; (iii) access, use, copy, display, distribute, transmit, publish, and create derivative works of such De-Identified Data, and such derivative works, for Coala Life's internal and commercial purposes; and (iv) sublicense to its employees, agents, contractors, partners, customers, and end users the rights to access, use, and display such De-Identified Data, and such derivative works, for Coala Life's internal and commercial purposes.

**6. Subscription Services.** During the Term, Coala Life shall provide you with the Subscription Services described in Subscription Services section.

## 7. Orders, Fees, Payment and Delivery.

**7.1. Coala Life Fees.** The Fees and associated payment and shipping terms are set forth on the applicable Order. Coala Life has rights to increase the pricing of any renewal Fees you may obtain by purchasing additional Devices, Licensed Materials and Maintenance Services by issuing additional Orders to Coala Life. All such additional Orders shall be subject to all of the terms and conditions of this Agreement. The Fees payable under this Agreement are fair market value, were negotiated in an arm's-length transaction and were not determined in any matter that takes into account, directly or indirectly, the volume or value of any

referrals or business otherwise generated for or with respect to either party.

**7.2. Billing and Collections.** You shall have the sole and exclusive right and responsibility to bill and collect for the ambulatory monitoring services provided to your patients, and shall have sole and exclusive right, title and interest in and to accounts receivable with respect to such services. Your billing policies and processes shall comply with applicable laws and regulations and third-party payor requirements, including ambulatory monitoring services coverage policies, the Medicare Anti-Markup Rule and comparable requirements, and your charges shall reasonably reflect your cost for providing the ambulatory monitoring services. Coala Life shall not bill, assess or charge any fee, assessment or charge of any type against any of your patients or any other person or entity with respect to the services provided pursuant to this Agreement.

**8. Your Representations and Warranties.** You represent and warrant that (a) you have full power and authority to enter into this Agreement; (b) you have not entered into any contract or commitment which shall interfere with the performance of your obligations under this Agreement; and (c) you have the right to grant access to and use of all Data provided to Coala Life in connection with your use of the Licensed Materials and this Agreement.

You represent and warrant that you are (i) duly licensed to practice medicine or to receive and dispense or use prescription devices in all jurisdictions where the Licensed Materials will be located, with knowledge and insights in the treatment of cardiac conditions and (ii) have received instructions by Coala Life on how to use the Licensed Materials.

You further represent and warrant that you have not (or will not at the time of initial and all subsequent uses of the Licensed Materials): (i) been convicted or charged of any felony, any business crime, or any crime relating to honesty or integrity; (ii) had a license to practice any licensed profession in any state suspended, revoked, or limited; (iii) been reprimanded or censured by any governmental licensing or regulatory agency; (iv) been excluded or suspended from participation in, or otherwise ineligible to participate in, Medicare, Medicaid or another Federal Health Care Program (as defined in 42 U.S.C. § 1320a-7b(f)) or been debarred by the Food and Drug Administration pursuant to Section 306 of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. § 335a; (v) been disqualified from receiving investigational drug, biologic or device products by the FDA; or (vi) been subject to any exclusion or debarment under the laws of any applicable jurisdiction. You will promptly notify Coala Life if any of these events occur.

YOU ARE SOLELY RESPONSIBLE FOR ANY MEDICAL CARE RENDERED TO YOUR PATIENTS, INCLUDING DETERMINING THAT AN AMBULATORY MONITORING SERVICE IS MEDICALLY NECESSARY AND PERFORMING AND SUPERVISING THE PROVISION OF ANY SERVICES USING THE LICENSED MATERIALS AND SUBSCRIPTION SERVICES. YOU SHALL RETAIN CLINICAL AND LEGAL RESPONSIBILITY FOR PERFORMING AND SUPERVISING THE PROVISION OF ALL SERVICES IN SUCH MANNER AS YOU, IN YOUR SOLE DISCRETION, DEEM APPROPRIATE. COALA LIFE SHALL HAVE AND EXERCISE ABSOLUTELY NO CONTROL OR SUPERVISION OVER THE PROVISION OF ANY SERVICES. ANY GUIDANCE PROVIDED BY COALA LIFE RELATED TO THE OPERATION OR PERFORMANCE OF THE LICENSED MATERIALS OR SUBSCRIPTION SERVICES IS PURELY ADVISORY IN NATURE, SHALL NOT CONSTITUTE THE PRACTICE OF MEDICINE, LEGAL ADVICE, CODING OR BILLING ADVICE, AND YOU SHALL BE SOLELY RESPONSIBLE FOR DETERMINING APPROPRIATE MEDICAL CARE FOR YOUR PATIENTS. COALA LIFE WILL NOT INDEMNIFY YOU, OR BE LIABLE FOR, ANY MEDICAL MALPRACTICE CLAIMS.

## 9. Coala Life Limited Warranty and Disclaimers.

**9.1. Limited Warranty and Remedies.** Coala Life warrants to you that the Licensed Product will materially conform to published specifications and be free from defects in materials, at the time that Coala Life ships the Licensed Product. Commencing upon the expiration of the Trial Period and continuing for twelve (12) months (the "**Warranty Period**"), Coala Life warrants solely to you that the Licensed Product shall perform the functions set forth in the Documentation existing on the Effective Date. If failure occurs during Warranty Period, you must notify Coala Life within two (2) weeks of the failure. Coala Life, at its sole option and expense,

shall use commercially reasonable efforts to promptly correct any failure of the Licensed Product to perform in accordance with the foregoing limited warranty if the failure is reported during the Warranty Period. If Coala Life is unable, after using commercially reasonable efforts, to correct the failure of the Licensed Product to perform in accordance with the foregoing limited warranty, your sole and exclusive remedy shall be to terminate this Agreement and receive a refund of the payments actually received by Coala Life from you for the applicable Licensed Product during the monthly periods in which Coala Life was in breach of the foregoing limited warranty after you provided notice to Coala Life of your warranty claim.

Coala Life shall have no obligation to make corrections, repairs, or replacements which result, in whole or in part, from your fault or negligence, or use of the Licensed Product in a manner not specified in the applicable Documentation. This Limited Warranty shall be void if the Licensed Product has been misused, neglected, improperly handled, altered, abused or used for any purpose other than the one for which it was manufactured or if the Licensed Product's failure to conform to the Limited Warranty was due in whole or in part to conditions beyond the control of Coala Life. This Limited Warranty shall also be void, and Coala Life assumes no liability, with respect to the Licensed Product being altered in anyway or otherwise not used consistent with applicable Product Instruction for Use. This Limited Warranty does not cover normal wear and tear. See Subscription Services and Purchase Terms sections for software and hardware specific coverage terms. In the event that Coala Life determines that a problem under investigation by Coala Life is not the result of the Licensed Product, you may, at the discretion of Coala Life, be required to reimburse Coala Life for any costs which Coala Life has incurred as a result of investigating and correcting the problem, plus any service charges based on Coala Life's then-current rates. See Purchase Term Section. Third party Software is warranted only to the extent warranted to you by the third-party manufacturer.

This Limited Warranty does not apply to any mobile device or the cellular and/or other network or system on which the Licensed Product operates. Therefore, Coala Life will not accept any responsibility under this Limited Warranty for the operation, availability, coverage, services or range of the cellular or other network system.

**9.2. Disclaimer.** COALA LIFE DOES NOT WARRANT THAT THE OPERATION OF THE DEVICE, THE LICENSED MATERIALS OR THE SUBSCRIPTION SERVICES WILL BE UNINTERRUPTED OR ERROR-FREE OR THAT THE DEVICE, THE LICENSED MATERIALS OR THE SUBSCRIPTION SERVICES WILL ACHIEVE THE RESULTS DESIRED BY YOU. EXCEPT AS EXPRESSLY SET FORTH IN THIS SECTION, COALA LIFE DISCLAIMS ALL REPRESENTATIONS AND WARRANTIES, WHETHER EXPRESS OR IMPLIED, WRITTEN OR ORAL, STATUTORY OR OTHERWISE, WITH RESPECT TO THE DEVICE, THE LICENSED MATERIALS, THE SUBSCRIPTION SERVICES AND ANY HARDWARE MAINTENANCE SERVICES PROVIDED HEREUNDER, INCLUDING, WITHOUT LIMITATION, ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, NON- INFRINGEMENT, OR WARRANTIES ARISING FROM A PARTICULAR COURSE OF DEALING, USAGE, OR TRADE PRACTICE. NO ORAL OR WRITTEN INFORMATION OR ADVICE GIVEN BY COALA LIFE SHALL CREATE A WARRANTY UNLESS COALA LIFE EXPRESSLY DESIGNATES IT AS A WARRANTY. ALL COALA LIFE OBLIGATIONS UNDER THE WARRANTIES SET FORTH IN THIS AGREEMENT ARE CONDITIONED UPON RECEIPT BY COALA LIFE OF NOTICE AND DOCUMENTATION ADEQUATE TO REASONABLY INFORM COALA LIFE OF THE CLAIM, AND PERFORMANCE BY YOU OF YOUR RESPONSIBILITIES HEREUNDER. COALA LIFE DISCLAIMS, AND YOU RELEASE COALA LIFE FROM, ANY AND ALL LIABILITY FOR YOUR USE OF THE LICENSED PRODUCT TO EXPORT AND TRANSMIT DATA WHICH IS PHI IN A MANNER THAT DOES NOT COMPLY WITH HIPAA OR OTHER SECURITY REQUIREMENTS UNDER APPLICABLE LAW. YOU ARE SOLELY RESPONSIBLE FOR COMPLIANCE WITH YOUR OBLIGATIONS UNDER HIPAA AND ANY OTHER APPLICABLE LAW, INCLUDING BUT NOT LIMITED TO MEDICAL RECORD RETENTION REQUIREMENTS. YOU UNDERSTAND AND AGREE THAT COALA LIFE WILL CALL THE PHYSICIAN BASED ON THE DIRECTIONS PROVIDED BY THE PHYSICIAN IN THE PHYSICIAN NOTIFICATION CRITERIA YOU UNDERSTAND AND AGREE THAT COALA LIFE WILL AT NO POINT IN TIME CALL THE PATIENT OR EMERGENCY SERVICES DIRECTLY EVEN IF NOTIFICATION CRITERIA IS MET. PATIENTS SHOULD BE INSTRUCTED THAT COALA LIFE IS NOT AN EMERGENCY SERVICE AND PATIENTS CONCERNED ABOUT THEIR CONDITION SHOULD IMMEDIATELY SEEK MEDICAL ATTENTION.

## 10. Confidentiality.

**10.1. PHI.** You are subject to the Health Insurance Portability and Accountability Act of 1996, as amended by the Health Information Technology for Economic and Clinical Health Act of 2009 and their implementing regulations (collectively, "HIPAA"), as a "covered entity," as that term is defined under HIPAA. The parties acknowledge that products and services covered under this Agreement may give rise to the disclosure to, or receipt or access by Coala Life of, PHI and cause Coala Life to satisfy the definition of a "business associate" under HIPAA. In order for you and Coala Life to comply with HIPAA, the parties agree to the terms and conditions of the Business Associate Agreement as set forth at Business Associate Agreement section, which is incorporated herein by reference.

**10.2. Obligation.** Except as otherwise expressly provided in this Agreement, during the Term and for five (5) years thereafter, each party shall hold in confidence and not use or disclose to any third party any product, technical, marketing, financial, business or other proprietary information ("**Proprietary Information**") disclosed to such party by the other, other than for purposes of exercising its rights or fulfilling its obligations under this Agreement. Upon request of Coala Life, you shall cause your employees, agents and other representatives who may have access to Coala Life's Proprietary Information, to sign agreements prohibiting the disclosure and use of the Proprietary Information consistent with the terms of this Agreement. Without limiting the foregoing, the terms of this Agreement shall be considered Coala Life's Proprietary Information. Any trade secret of a disclosing party shall be subject to the confidentiality terms and conditions of this Agreement for so long as the disclosing party protects such trade secret as a trade secret under Applicable Law.

**10.3. Limitation.** Notwithstanding the foregoing, Proprietary Information shall not include information that: (i) was publicly known or made generally available without a duty of confidentiality prior to the time of disclosure by the disclosing party to the receiving party; (ii) becomes publicly known or made generally available without a duty of confidentiality after disclosure by the disclosing party to the receiving party; (iii) is in the rightful possession of the receiving party without confidentiality obligations at the time of disclosure by the disclosing party to the receiving party as shown by the receiving party's then-contemporaneous written files and records kept in the ordinary course of business; or (iv) is obtained by the receiving party from a third party without an accompanying duty of confidentiality without a breach of such third party's obligations of confidentiality. In the event the receiving party is legally compelled to disclose Proprietary Information of the disclosing party, the receiving party shall provide notice as soon as is reasonably practicable to the disclosing party, if legally permissible, and shall provide reasonable assistance to the disclosing party to obtain a protective order or otherwise prevent public disclosure of such Proprietary Information. If the disclosing party fails to obtain a protective order or other appropriate remedy, the receiving party will furnish only that portion of the Proprietary Information that is legally required to be disclosed.

**11. Indemnification by You.** Excluding claims of Coala Life's intellectual property infringement of third party rights as provided herein, you shall indemnify and defend Coala Life, its affiliates, officers, directors, and employees against any costs, expenses, or liability directly or indirectly arising out of or relating to any claim by a third party regarding your use or possession of the Licensed Materials, your practice of medicine, or Data provided to Coala Life by you.

**12. Limitation of Liability.** IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR ANY INCIDENTAL, SPECIAL, PUNITIVE OR CONSEQUENTIAL DAMAGES, INCLUDING LOST PROFITS, OR LOST DATA, CONCLUSIONS DRAWN THIRD PARTY MONITORING CENTERS, COST OF PROCUREMENT OF SUBSTITUTE GOODS, OR ANY INDIRECT DAMAGES EVEN IF SUCH PARTY HAS BEEN INFORMED OF THE POSSIBILITY THEREOF AND NOTWITHSTANDING THE FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY STATED HEREIN. IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR ANY DAMAGES IN EXCESS OF THE AMOUNT OF FEES PAID OR PAYABLE BY YOU FOR THE LICENSED PRODUCTS IN THE TWELVE (12) MONTH PERIOD PRIOR TO THE DATE OF ANY CLAIM. THE LIMITATIONS SET FORTH IN THIS SECTION 12 DO NOT APPLY TO YOU DURING THE TRIAL PERIOD.



### 13. Term and Termination.

**13.1. Term.** The term for the Licenses ordered by you and accepted by Coala Life under this Agreement shall commence upon the Initial Service Date for such License and shall continue for as long as the Licensed Product is in use, unless such License is earlier terminated under the terms of this Agreement. Coala Life reserves the right to invoice you in accordance to pricing and terms agreed in the Order.

**13.2. Termination for Breach.** Either party may terminate this Agreement and all licenses granted under this Agreement immediately upon notice from it to the other party for any of the following reasons: (i) by Coala Life for your failure to make monetary payment of any amount due to Coala Life under this Agreement by the date such payment is due (a **“Termination for Nonpayment”**); (ii) by either party as a result of other party’s breach of any material, non-monetary provision of this Agreement that is not cured within thirty (30) days of written notice of such breach to the breaching party (a **“Termination for Breach”**); and (iii) by either party when (a) the other party is the subject of a petition of involuntary bankruptcy which is not dismissed within sixty (60) days; (b) the other party is the subject of a petition of voluntary bankruptcy which is not dismissed within thirty (30) days; or (c) the other party makes a general assignment for the benefit of creditors or is appointed a receiver on account of its insolvency (a **“Termination for Insolvency”**).

**13.3. Effects of Termination or Expiration.** In the event of Termination for Breach resulting from Coala Life’s breach, you shall have a right to a refund of any amounts already paid for any period following the date of termination.

In the event of a Termination for Nonpayment or a Termination for Breach resulting from your breach, any of your unpaid payment obligations (including all license Fees that would be paid by you during the then-applicable License Term for all active licenses) shall survive and continue beyond termination and Coala Life shall be entitled to retain any Fees that have already been paid by you and to collect the balance of any Fees that remain unpaid by you. Upon termination of this Agreement, you shall immediately cease all access to and use of Coala Life Proprietary Information, including the Licensed Materials, and return, delete, or destroy (at Coala Life’s election) all copies of Coala Life Proprietary Information in your possession. Upon termination of any license granted under this Agreement, you shall immediately cease all access to and use of the Licensed Materials permitted by such terminated license and delete or destroy all copies of the Licensed Materials permitted to be made by such terminated license.

Upon termination of this Agreement for any reason, Coala Life will immediately cease providing any Subscription Services being provided by Coala Life under this Agreement. Any expiration or termination of this Agreement shall not modify any rights or obligations of a party hereto which arose prior to such expiration or termination. In addition, the following sections shall survive the expiration or any termination of this Agreement: 7, 8, 9.2, 10, 11, 12, 15, and 16.

**14. Compliance with Laws.** You shall use the Licensed Materials made available by Coala Life hereunder in compliance with all applicable federal, state, and local laws, rules, and regulations, including, without limitation, all import and export restrictions, the Health Insurance Portability and Accountability Act of 1996 and the Health Information Technology for Economic and Clinical Health Act and their implementing regulations, the federal False Claims Act (31 U.S.C. §§ 3729 et seq.), the federal Anti-Kickback Statute (42 U.S.C. § 1320a-7b(b)), including but not limited to any applicable disclosure and transparency obligations under any applicable safe harbor including the equipment lease, personal services and management contract, and discount safe harbor (42 C.F.R. § 1001.952(c), (d) and (h)), Physician Self-Referral Law (42 U.S.C. §§ 1395nn), the Physician Payments Sunshine Act (42 U.S.C. § 1320a-7h), and its implementing regulations (the **“U.S. Sunshine Act”**), the anti-fraud and abuse provisions of the Federal Health Care Programs, including, but not limited to, Medicare, Medicaid, TRICARE and those of the Veterans Administration, as well as with the requirements set forth under the Federal Food, Drug, and Cosmetic Act and their implementing regulations (**“Applicable Law”**) and third-party payor requirements, including any requirements of Federal Health Care Programs. You shall be solely responsible for the retention of any Data or Reports as necessary to comply with your obligations under Applicable Law. You have the sole and exclusive right and responsibility to bill and collect for services

provided to your patients using the Licensed Materials and Subscription Services, including any professional and technical component, and your billing policies and processes shall comply with Applicable Law and third-party payor requirements, including any requirements of Federal Health Care Programs.

You shall use the Licensed Materials in strict accordance with the written labelling for the Licensed Materials including, but not limited to, any written Instructions for Use (IFU), User’s Manual, or other written instructions provided by Coala Life. Any off-label use of the Licensed Materials by you may, at Coala Life’s sole discretion, be considered a material breach of this Agreement.

You shall promptly notify Coala Life in writing upon receipt of any Adverse Event information relating to the Licensed Materials. For purposes of this Agreement, **“Adverse Event”** means an event that reasonably may suggest that the Licensed Materials: (i) may have caused or contributed to a death or serious injury; or (ii) have malfunctioned and that the Licensed Materials or a similar product would be likely to cause or contribute to a death or serious injury if the malfunction were to recur. Coala Life shall conduct investigations and file, or cause to be filed, all Adverse Event reports required pursuant to the medical device reporting regulations set forth in 21 C.F.R. part 803, as such regulations shall be amended from time to time.

Upon your receipt of any Complaint relating to the Licensed Materials, you will send to Coala Life a copy or other documentation of such Complaint within two (2) business days from notification of the complaint. For purposes of this Agreement, **“Complaint”** means any written, electronic or oral communication that alleges deficiencies related to the identity, quality, durability, reliability, safety, effectiveness or performance of the Licensed Materials after released for distribution. Coala Life will perform a failure analysis and submit any reports required by the FDA or any other regulatory authority. You agree that you will undergo regulatory compliance training if and when Coala Life deems that training is required by law or otherwise advisable to assure compliance with laws and regulations applicable to Coala Life. Coala Life reserves the right to take all actions, which it believes necessary, in its sole discretion, to comply with Applicable Law. You agree to discontinue any improper use of the Licensed Materials promptly after receipt of written notice from Coala Life as is reasonably feasible under the circumstances. You remain solely responsible for complying with Applicable Law, notwithstanding Coala Life’s furnishing Licensed Materials and/or Subscription Services pursuant to this Agreement.

Nothing herein shall be construed to require you to purchase, order, recommend, or arrange for, the purchase, order, or recommendation of any products manufactured and/or marketed by Coala Life. If required pursuant to any laws (including the U.S. Sunshine Act and analogous state laws or laws in foreign jurisdictions), Coala Life may disclose any transfers of value or payments made by Coala Life to you under this Agreement. You acknowledge that any transfer of value disclosed by Coala Life pursuant to legal requirements may become available to the public.

**15. Dispute Resolution.** Any dispute or claim, except for disputes relating to the infringement of Coala Life’s intellectual property rights or the access or use of the Licensed Materials in violation of this Agreement (a **“Claim”**), will be resolved by binding arbitration, rather than in court. The arbitration will be conducted before a neutral single arbitrator, whose decision will be final and binding, and the arbitral proceedings will be governed by the AAA Commercial Arbitration Rules. To begin an arbitration proceeding, you must send us a notice of dispute, in writing, setting forth your name, address and contact information, the facts of the dispute and relief requested. You must send your notice of legal dispute to us at the following address: info.us@coallife.com. The arbitration will be conducted, at the option of the party seeking relief, by telephone, online, or based solely on written submissions. Unless the arbitrator finds the arbitration was frivolous or brought for an improper purpose, the parties will split equally all AAA and arbitrator’s fees and expenses. If for any reason a Claim proceeds in court rather than in arbitration, such Claim shall be brought in a court of competent jurisdiction in California, both parties agree to accept and submit to the personal jurisdiction of such court, and you and Coala Life each waive any right to a jury trial. In no event will any Claim, or any other action or proceeding by you (including arbitration under this Section 15) be instituted more than one (1) year after the cause of action arose. Any judgment on the award rendered by the arbitrator may be entered in any court of competent jurisdiction. If

a court of competent jurisdiction finds the foregoing arbitration provisions invalid or inapplicable, you and Coala Life each agree to the exclusive jurisdiction of the Federal and State courts located in Irvine, California, and you and Coala Life each agree to submit to the exercise of personal jurisdiction of such courts for the purposes of litigating any applicable dispute or claim.

## 16. General.

The Coala Heart Monitor is intended for use by licensed medical professionals or patients to record, store and transfer single-channel electrocardiogram (ECG) rhythms and heart sound. The Coala Heart Monitor also displays ECG rhythms and detects the presence of normal sinus rhythm and atrial fibrillation (when prescribed or used under the care of a physician). The Coala Heart Monitor is intended for use by healthcare professionals and individuals with known or suspected heart conditions. The Coala Heart Monitor has not been tested and it is not intended for pediatric use. Rx ONLY.

THE RESULTS SHOWN IN THE COALA APP ARE INTENDED FOR USE AS AN INDICATOR OF YOUR HEALTH CONDITION AND THE INFORMATION SHOULD ONLY BE DISCLOSED AS INFORMATIVE. COALA LIFE EXPRESSLY DISCLAIMS ALL LIABILITY FOR ERRORS AND INJURIES TO COALA HEART MONITOR AND COALA APP AND MAKES NO WARRANTIES (EXPRESS OR IMPLIED) REGARDING THE HEALTH INFORMATION. IN THE LEAST DOUBT ABOUT YOUR HEALTH, COALA LIFE RECOMMENDS THAT YOU ALWAYS CONTACT YOUR DOCTOR OR CALL 911 IN CASE OF EMERGENCY.

NOTE THAT COALA LIFE IS NOT RESPONSIBLE NOR CAN BE HELD LIABLE FOR THE ADVICE GIVEN BY ANY EXTERNAL HEALTHCARE PROVIDER IN THE CONTEXT OF THE COALA SERVICE. THE REFERRING OR PRESCRIBING HEALTHCARE PROFESSIONALS ARE SUBJECT TO APPLICABLE HEALTHCARE LAWS AND REGULATIONS IN THE REGION OF PURCHASE.

**16.1. Governing Law** The performance of this Agreement shall be governed by and construed in accordance with the domestic laws of California. The parties agree that under no circumstances shall the Uniform Computer Information Transactions Act (UCITA), or any version thereof, apply to this Agreement. The United Nations Convention on the International Sale of Goods shall not apply to this Agreement.

**16.2. Assignment.** You may not assign this Agreement or delegate any duties pursuant to this Agreement without the prior written consent of Coala Life, which shall not be unreasonably withheld. Coala Life may, without your consent, assign the right to monies due or becoming due. Coala Life may also, without your consent, assign this Agreement in the event of a sale of all or substantially all of Coala Life's assets or stock.

**16.3. Announcements.** No party shall make, or permit any person to make, any public announcement concerning this Agreement without the prior written consent of the other parties (such consent not to be unreasonably withheld or delayed), except as required by law, any governmental or regulatory authority (including, without limitation, any relevant securities exchange), any court or other authority of competent jurisdiction.

**16.4. Waiver; Amendment.** The failure of either party to enforce its rights under this Agreement at any time for any period shall not be construed as a waiver of such rights unless evidenced in writing and signed for on behalf of both parties. Any modification or amendment of, or addition to, the terms of this Agreement shall not be effective unless in a writing which is signed by an authorized officer of both parties.

**16.5. Notices.** Any notice or report required or permitted to be given or made under this Agreement by either party shall be in writing and delivered by overnight courier or by registered or certified airmail, postage prepaid, or by facsimile, which facsimile is promptly confirmed, in writing, by registered or certified airmail, postage prepaid. Notices will be considered to have been given (i) one (1) day after delivery to an overnight courier, (ii) three (3) business days after deposit in the mail as set forth above or (iii) upon receipt of actual delivery by facsimile. Coala Life shall deliver all notices to you to the address set forth on the applicable order form(s), and you shall deliver all notices to Coala Life to the following address (or, in each case, to such other address as a party may specify

by notice under this Agreement): Coala Life, Inc. 3333 Michelson Dr Suite 300 Irvine, CA 92612, Phone: (888) 574-4441, Attn: President.

**16.6. Severability.** If any provision of this Agreement is held to be void, invalid or unenforceable, the same shall be reformed to give the fullest effect to the intention of the parties when executing this Agreement while complying with Applicable Law or stricken if not so conformable, so as not to affect the validity or enforceability of the remainder of this Agreement.

**16.7. Force Majeure.** Notwithstanding anything in this Agreement to the contrary, no default, delay or failure to perform on the part of either party, excluding your payment obligations, shall be considered a breach of this Agreement if such default, delay or failure to perform is shown to be due entirely to causes beyond reasonable control of the party charged with a default, including, but not limited to, causes such as strikes, lockouts or other labor disputes, riots, civil disturbances, actions or inaction of governmental authorities or suppliers, epidemics, war, embargos, severe weather, fire, earthquakes, acts of God or the public enemy, nuclear disasters or default of a common carrier. If the force majeure event prevents, hinders or delays the affected party's performance of its obligations for a continuous period of more than thirty (30) days, the party not affected by the force majeure event may terminate this Agreement by giving fifteen (15) days' written notice to the affected party.

**16.8. Purchase Orders.** Any purchase order or other document issued by you is for convenience or for your internal purposes only. Any preprinted or typed terms and conditions on any purchase order or other document of yours are null and void and shall not add to or modify the terms of this Agreement.

**16.9. Restricted Rights.** Licensed Materials provided to the U.S. Government are provided with RESTRICTED RIGHTS as provided for in FAR, 48 CFR 52.227-14 (JUNE 1987) or DFAR, 48 CFR 252.227-7013 (OCT 1988), as applicable.

**16.10. Export Law.** Neither party shall commit any act or request the other party to commit any act which would violate either the letter or the spirit of the export control laws or regulations of the European Union, United States or other export control laws, rules or regulations, as applicable. You represent and warrant that you shall not, directly or indirectly, export, re-export or transship Licensed Materials, technology or Software in violation of any applicable U.S. export control laws and regulations or any other applicable export control laws of any country having jurisdiction over the parties or the transactions contemplated by this Agreement.

**16.11. Headings.** Headings herein are for convenience only and shall in no way affect interpretation of this Agreement.

**16.12. Third Party Beneficiaries.** There are no third-party beneficiaries to this Agreement.

**16.13. Entire Agreement.** This Agreement, all Exhibits attached hereto, all Orders submitted hereunder, and The General Terms and Conditions, constitute the entire understanding and contract between the parties and supersedes any and all prior and contemporaneous, oral or written representations, communications, understandings, and agreements between the parties with respect to the subject matter hereof.

## PURCHASE TERMS AND INSURANCE PLAN

**Purchase Terms:** The purchase terms are described and agreed upon in the Order. A temporary license to use the Coala system is granted upon activation of Patient. If you cancel this agreement, consignment Devices must be returned using the RMA Process. Devices not returned will be billed according to the lost device policy herein.

**Return Merchandise Authorization (RMA):** The RMA Process must be followed for Device replacement coverage to be applied to defective or damaged Devices. RMA Devices must be returned to Coala Life within two (2) weeks of removal from service. RMA Devices not received by Coala Life within 30 days are subject to lost Device policy charges of \$995. You must call Customer Service to initiate the RMA Process for your damaged or defective Device.

**Insurance Coverage Plan:** The Device Insurance Plan covers replacement of one (1) damaged or lost Device during the License Term specified in the applicable Order. Coala Life will determine at its sole discretion whether a Device qualifies for replacement due to damage in accordance with its RMA Process guidelines.

**No Insurance Coverage Plan Damaged Device:** Coala Life will replace, for a fee of \$400, any damaged Device during the License Term specified in the applicable Order. Coala Life will determine at its sole discretion whether a Device qualifies for replacement due to damage in accordance with its RMA Process guidelines.

**No Insurance Coverage Plan Lost Device:** Coala Life will replace, for a fee of \$600, any lost Device during the License Term specified in the applicable Order. Lost Device replacement is limited to a single replacement Device. Lost Devices will be deactivated by Coala Life to ensure appropriate use of the Device is controlled.

Coala Life or its authorized agents will provide you with e-mail and telephone support from 8:30AM to 5:00 PM, Pacific Time, Monday through Friday, except for holidays recognized by the US federal government, (the “**Service Hours**”). Services do not include support for products and services not sold or licensed to you by Coala Life or its authorized agents. In the event that you report to Coala Life any error in your Devices (the Severity Level to be reasonably determined by Coala Life), Coala Life will respond to such reports as described in Subscription Services section.

## SUBSCRIPTION SERVICES (SOFTWARE)

**Maintenance Services:** Maintenance Services consist of Coala Life providing you, from time to time during the Agreement Term and at Coala Life’s discretion, enhancements, revisions, and modifications (including patches, updates, and upgrades) to the Licensed Materials (Software). Coala Life or its authorized agent will provide you with e-mail and telephone support from 8:30AM to 5:00 PM, Pacific Time, Monday through Friday, except for holidays recognized by the federal government, Saturday and Sunday (the “**Service Hours**”). Maintenance Services do not include support for products and services not sold or licensed to you by Coala Life. The license Fees paid by you include Maintenance Services. In the event that you report to Coala Life any error in the Licensed Materials (the Severity Level to be reasonably determined by Coala Life), Coala Life will respond to such reports as follows:

“Severity Level 1” is an emergency condition which makes the use or continued use of any one or more functions of the Licensed Materials impossible or significantly impaired.

“Severity Level 2” is, other than any Severity Level 1 problem, any condition which makes the use or continued use of any one or more functions of the Licensed Materials difficult and which you cannot reasonably circumvent or avoid on a temporary basis without the expenditure of significant time or effort.

“Severity Level 3” is, other than any Severity Level 1 problem or Severity Level 2 problem, any limited Problem condition which is not critical in that you can reasonably circumvent or avoid on a temporary basis without the expenditure of significant time or effort.

“Severity Level 4” is, other than any Severity Level 1 problem, Severity Level 2 problem or Severity Level 3 problem, a minor problem condition or documentation error which you can easily circumvent or avoid.

Coala Life will use commercially reasonable efforts to respond to an error, depending on the Severity Level, within the time frames set forth in the chart below, starting from the time you notify Coala Life of the error within Coala Life’s designated Service Hours.

**Reports:** Coala Life shall store and host your patient reports summarizing monitoring Data, such as electrocardiogram events, patient indication of symptoms, and trending data (each, a “**Report**”). The Reports shall be accessible to you at any time during the License Term. You shall be solely responsible for downloading and retaining all Reports as necessary or desired prior to termination of the License Term.

**Monitoring Center.** Coala Life has contractual agreements with third party, US-based, providers of 24-hour, 7-days a week ECG monitoring centers (“**Monitoring Center**”). These Monitoring Centers are contracted to review the data generated by the Coala Heart Monitor enabling providers in the US to prescribe the Coala Heart Monitor to patients as a 30-day event monitor. Upon activating a new patient, and if you choose to use the Monitoring Center service, check the box for Monitoring Center in the Coala Care portal. By this, you grant the Monitoring Center rights and access the specific patients’ data, until the patient is terminated from the service. You are respectively responsible for secure data management and PHI as per HIPAA regulations defined in this contract. You also agree to the Payment Terms for the use of the Monitoring Center as defined in the Order.

The Monitoring Center is contractually obliged to meet all CMS requirements including, but not limited to, having technician credentialing requirements, a supervisory physician who performs General Supervision and a written determination that the Monitoring Provider actually has a person available on a 24-hour basis to answer telephone inquiries. Any use of an answering service in lieu of the actual person is not acceptable. You acknowledge, and expressly represent and warrant, that you will not hold Coala Life liable for the (i) clinical or technical interpretation of patient data performed by the Monitoring Center, (ii) the General Supervision of the Monitoring Center or its credentials, (iii) any other obligations, communications or interpretations given to you by or on behalf of the Monitoring Center. This clause shall remain in full force and effect notwithstanding the expiration or termination of this Agreement.



## BUSINESS ASSOCIATE AGREEMENT

This Business Associate Agreement (this “**Agreement**”) is entered into by and between you (“**Covered Entity**”), and Coala Life Inc. (“**Business Associate**”) (Business Associate and Covered Entity shall each be referred to herein individually as a “**Party**” and collectively, as the “**Parties**”), and is effective as of the Effective Date (as defined in the Underlying Services Agreement).

a) **WHEREAS**, Covered Entity and Business Associate are parties to an agreement, including any related attachments, exhibits, statements of work, and schedules, entered into as of the Effective Date (together and as amended, the “**Underlying Services Agreement**”) pursuant to which Business Associate provides a license to access and use the Coala Heart Monitor and related services to Covered Entity which involve the creation, receipt, maintenance, or transmission of Protected Health Information (“**PHI**”) (as defined below) by Business Associate for or on behalf of Covered Entity (the “**Services**”);

**WHEREAS**, Covered Entity and Business Associate intend to protect the privacy and provide for the security of PHI disclosed to Business Associate pursuant to this Agreement and the Underlying Services Agreement in compliance with the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 (“**HIPAA**”), the Health Information Technology for Economic and Clinical Health Act, as incorporated in the American Recovery and Reinvestment Act of 2009 (“**HITECH Act**”), and the regulations promulgated thereunder, including the Standards for Privacy of Individually Identifiable Health Information at 45 C.F.R. Part 160 and Part 164, Subparts A and E (the “**Privacy Rule**”), the Security Standards for the Protection of Electronic Protected Health Information at 45 C.F.R. Part 160 and Part 164, Subparts A and C (the “**Security Rule**”), and the Notification of Breach of Unsecured Protected Health Information requirements at 45 C.F.R. Part 164, Subpart D (the “**Breach Notification Rule**”) (collectively, the “**HIPAA Rules**”); and

**WHEREAS**, the purpose of this Agreement is to satisfy certain standards and requirements of the HIPAA Rules (as defined herein), including, but not limited to, those at 45 C.F.R. §§ 164.314(a), 164.502(e), and 164.504(e), as the same may be amended from time to time.

**NOW, THEREFORE**, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties, intending to be legally bound, hereby agree as follows:

**1. Definitions.** For purposes of this Agreement, capitalized terms used, but not otherwise defined, shall have the same meaning as those terms in HIPAA, the HITECH Act, the HIPAA Rules, or any future regulations promulgated, or guidance issued by the Secretary thereunder:

- a) “**HIPAA Rules**” shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 C.F.R. Parts 160 and 164, Subparts A and E (the “**Privacy Rule**”), the Security Standards for the Protection of Electronic Protected Health Information at 45 C.F.R. Parts 160 and 164, Subparts A and C (the “**Security Rule**”), and the Notification of Breach of Unsecured Protected Health Information requirements at 45 C.F.R. Part 164, Subpart D (the “**Breach Notification Rule**”), collectively.
- b) “**Individual**” shall mean the person who is the subject of the PHI or other personally identifiable information and shall include a person who qualifies as a personal representative in accordance with 45 C.F.R. § 164.502(g).
- c) “**Protected Health Information**” or “**PHI**” shall have the same meaning as the term “protected health information” at 45 C.F.R. § 160.103, except that Protected Health Information or PHI as defined herein shall be limited to the information created or received by Business Associate from or on behalf of Covered Entity. PHI shall include Electronic Protected Health Information.

### 2. Permitted Uses and Disclosures of PHI.

- a) Business Associate may use or disclose PHI:
  - i) For the purpose of performing Business Associate’s obligations and as permitted under the Underlying Services Agreement and this Agreement, provided, however, that Business Associate shall not disclose PHI in a manner that would violate the Privacy Rule, if done by Covered Entity;

- (1) For the proper management and administration of Business Associate;
- (2) To carry out the legal responsibilities of Business Associate;
- (3) As required by law;
- (4) To perform Data Aggregation services as permitted by 45 C.F.R. § 164.504(e)(2)(i)(B) related to Covered Entity’s Health Care Operations;
- (5) To a third party for the proper management and administration of Business Associate or to carry out the legal responsibilities of Business Associate, provided that prior to making any such disclosure, Business Associate obtains reasonable written assurances that such third party will hold the PHI in confidence and use or further disclose the PHI only for the purposes for which Business Associate disclosed the PHI or as required by law, and the third party notifies Business Associate of any instances of which it is aware in which the confidentiality of the PHI has been breached.

b) **Minimum Necessary Standard.** Covered Entity shall only disclose to Business Associate the minimum amount of PHI necessary to accomplish the intended purpose of the use or disclosure and as necessary to carry out the purposes specified in the Underlying Services Agreement. The phrase “minimum necessary” shall be interpreted in accordance with the HITECH Act, the HIPAA Rules, and government guidance on the definition.

c) Both parties agree to comply with all federal or more restrictive state statutes and regulations concerning the privacy, security, and confidentiality of information used or disclosed pursuant to the Underlying Services Agreement, or this Agreement, including laws protecting the confidentiality of medical information.

d) Business Associate may use or disclose PHI for any purpose provided that the PHI has been de-identified in accordance with the standards set forth in 45 C.F.R. § 164.514(b).

### 3. Obligations of Covered Entity.

b) **Permissible Requests by Covered Entity.** Covered Entity shall not request Business Associate to use or disclose PHI in any manner that would not be permissible under the Privacy Rule if done by Covered Entity, except as permitted pursuant to Sections 2(a)(i)(1) and 2(a)(i)(4) of this Agreement.

c) **Notice of Privacy Practices.** Covered Entity shall not disclose PHI to Business Associate except as permitted by its Notice of Privacy Practices in effect at the time of the disclosure. Covered Entity shall promptly, and in no event later than fifteen (15) days prior to the effective date of any such limitation, notify Business Associate of any limitation in its notice of privacy practices in accordance with 45 C.F.R. § 164.520, to the extent that such limitation may affect Business Associate’s use or disclosure of PHI under the Underlying Services Agreement and this Agreement.

d) **Notification of Changes Regarding Individual Permission.** Covered Entity shall promptly, and in no event later than fifteen (15) days prior to the effective date of any such change, notify Business Associate of any change in, or revocation of, permission by an individual to use or disclose such individual’s PHI, to the extent such change or revocation may affect Business Associate’s use or disclosure of PHI under the Underlying Services Agreement and this Agreement.

e) **Notification of Restrictions to Use or Disclosure of PHI.** Covered Entity shall promptly, and in no event later than fifteen (15) days prior to the effective date of any such restriction, notify Business Associate of any restriction to the use or disclosure of PHI that Covered Entity has agreed to in accordance with 45 C.F.R. § 164.522, to the extent that such restriction may affect Business Associate’s use or disclosure of PHI under the Underlying Services Agreement and this Agreement.

### 4. Obligations of Business Associate.

- a) **Appropriate Safeguards.** Business Associate shall use appropriate safeguards to prevent use or disclosure of PHI other than as provided for by the Underlying Services Agreement and this Agreement. Business Associate shall implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of Electronic PHI, in accordance with Applicable Law, including 45 C.F.R. §§ 164.308, 164.310, and 164.312, and as addressed or specified in the Underlying Services Agreement. Business Associate shall comply with the policies, procedures, and documentation requirements of the Security Rule which directly apply to Business Associate, including but not limited to 45 C.F.R. § 164.316.
- b) **Reporting of Improper Access, Use, or Disclosure.** Business Associate shall report to Covered Entity any access, use, or disclosure of

PHI not provided for by the Underlying Services Agreement and this Agreement of which it becomes aware, including any Breach of Unsecured PHI as required by 45 C.F.R. § 164.410.

c) Business Associate's Agents. Business Associate shall ensure that any agent, including a subcontractor, to whom it provides PHI received from, or created or received by Business Associate on behalf of Covered Entity, agrees to the same restrictions and conditions that apply through this Agreement to Business Associate with respect to such PHI.

d) Individual Access to PHI. Business Associate shall provide access, at the reasonable request of Covered Entity, to PHI in a Designated Record Set, to Covered Entity or to an Individual in order to meet the requirements under the Privacy Rule, including, but not limited to, 45 C.F.R. § 164.524. If Business Associate maintains an Electronic Health Record, Business Associate shall provide such information in electronic format to enable Covered Entity to fulfill its obligations under the HITECH Act, including but not limited to 42 U.S.C. § 17935

e) Amendment of PHI. Business Associate shall make any amendment(s) to PHI in a Designated Record Set pursuant to 45 C.F.R. § 164.526 at the reasonable request of Covered Entity or at the request of an Individual. If any Individual requests an amendment of PHI directly from Business Associate or its agents or subcontractors, Business Associate shall notify Covered Entity in writing within fifteen (15) days of the request. Any approval or denial of amendment of PHI maintained by Business Associate or its agents or subcontractors shall be the responsibility of Covered Entity (45 C.F.R. § 164.504(e)(2)(ii)(F)).

f) Documentation of Disclosures. Business Associate agrees to document disclosures of PHI and information related to such disclosures 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.

g) Accounting of Disclosures. Business Associate agrees to provide to Covered Entity, information collected in accordance with Section 4(f) of this Agreement, to permit 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, and the HITECH Act, including but not limited to 42 U.S.C. § 17935(c). In the event that the request for an accounting is delivered directly to Business Associate, its agents, or subcontractors, Business Associate shall forward such request to Covered Entity in writing. It shall be Covered Entity's responsibility to prepare and deliver any such accounting requested.

h) Governmental Access to Records. Business Associate shall make its internal practices, books, and records relating to the use and disclosure of PHI received from, or created or received by Business Associate on behalf of, Covered Entity available to the Secretary for purposes of determining Covered Entity's compliance with the Privacy Rule, in accordance with 45 C.F.R. § 164.504(e)(2)(i)(I). Covered Entity agrees to notify Business Associate within five (5) business days of Covered Entity's receipt of any legal process requesting PHI, including but not limited to requests from the Secretary or a state attorney general, unless such notice is prohibited by law. Covered Entity agrees to fully cooperate with Business Associate in responding to such a request or other legal process.

i) Compliance with Privacy Rule. To the extent Business Associate is delegated to carry out any of Covered Entity's obligations under the Privacy Rule, Business Associate shall comply with the requirements of the Privacy Rule that apply to Covered Entity in the performance of such delegated obligations, in accordance with 45 C.F.R. § 164.504(e)(2)(i)(H).

**5. Amendment.** Except as provided herein, no change, amendment, or modification of this Agreement shall be valid unless set forth in a writing signed by the Parties. Notwithstanding the foregoing, the Parties acknowledge that state and federal laws relating to data security and privacy are rapidly evolving and that amendment of this Agreement may be required to ensure compliance with such developments. The Parties specifically agree to take such action as is necessary to comply with the standards and requirements of the HIPAA Rules and other Applicable Law relating to the security or confidentiality of PHI.

**6. No Third-Party Beneficiaries.** Nothing express or implied in this Agreement is intended to confer, nor shall anything herein confer, upon any person other than Covered Entity, Business Associate, and their respective successors or assigns, any rights, remedies, obligations, or liabilities whatsoever.

**7. Independent Contractors.** In the performance of the Services and the obligations under this Agreement, the Parties acknowledge and agree that each Party is at all times acting and performing as an independent contractor and at no time shall the relationship between the Parties be construed as a partnership, joint venture, employment, principal/agent, or master/servant relationship.

**8. Counterparts; Facsimiles.** This Agreement may be executed in counterparts, each of which shall be deemed on original. Facsimile copies hereof shall be deemed to be originals.

## 9. Term and Termination.

a) Term. This Agreement shall become effective on the Agreement Effective Date and shall expire when all of the PHI, regardless of form, provided by Covered Entity to Business Associate is destroyed or returned to Covered Entity.

b) Termination. Notwithstanding any other provision under this Agreement, Covered Entity may terminate this Agreement if Covered Entity determines that Business Associate has violated a material term of this Agreement.

c) Effect of Termination.

a. Except as provided in subparagraph (ii) of this paragraph of this Agreement, upon termination of this Agreement for any reason, Business Associate shall return or destroy all PHI received from Covered Entity or created or received by Business Associate on behalf of Covered Entity. This provision shall apply to PHI that is in the possession of subcontractors or agents of Business Associate. Business Associate shall retain no copies of PHI. This provision shall not apply to PHI that has been de-identified in accordance with the Privacy Rule or statistical compilations of PHI created as part of data aggregation.

b. If return or destruction of PHI is infeasible, Business Associate shall extend the protections of this Agreement to such PHI and limit further uses and disclosures of such PHI to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains such PHI. The Parties acknowledge and agree that this Section 9(c) shall survive the termination of this Agreement.

**10. Choice of Law; Interpretation.** This Agreement shall be governed by the laws of California; provided, however, that any ambiguity in this Agreement shall be resolved in favor of a meaning that permits Covered Entity and Business Associate to comply with HIPAA, the HITECH Act, and the HIPAA Rules. In the event that certain federal or state laws take precedence over HIPAA, this Agreement shall be interpreted to enable the Parties to comply with any and all of applicable federal or state laws, including but not limited to HIPAA, the HITECH Act, and the HIPAA Rules.

**11. Entire Agreement.** This Agreement constitutes the entire and full agreement between the Parties with respect to the subject matter hereof and supersedes any previous contract. Any prior agreements, documents, understandings, or representations relating to the subject matter of this Agreement not expressly set forth herein or referred to or incorporated herein by reference are of no force or effect.

**12. Regulatory References.** A reference in this Agreement to a section in the HIPAA Rules means the section as in effect or as amended and for which compliance is required at the time.

**13. Notices.** Any notice required under this Agreement shall be in writing and shall be delivered personally or sent by U.S. mail to the addresses indicated below: For Covered Entity: The address specified on the applicable order form(s) to the Underlying Services Agreement. For Business Associate: Coala Life Inc. 3333 Michelson Drive, Suite 300. Irvine, 92612, CA, Attn: President.