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## MASTER LICENSE AGREEMENT

THIS MASTER LICENSE AGREEMENT ("Agreement" or "MLA") is made by and between MCG HEALTH, LLC ("MCG") and BEHAVIORAL HEALTH & RECOVERY SERVICES ("Licensee"). The Agreement shall be effective as of 9/30/2018 the ("Effective Date").

Each of the following additional documents is included in and made a part of this Agreement. In the event of any conflict between the MLA Terms and Conditions and any Schedule, the terms of the applicable Schedule shall control.

Title	Description
<b>MLA Terms and Conditions</b>	Primary legal terms applicable to this Agreement.
<b>Solution &amp; Fee Schedule</b>	Identification of Licensed Solutions, Authorized Use, Licensed Basis, and Fees. Where multiple Solution & Fee Schedules are required, each shall be set forth on a separate Solution & Fee Schedule denominated by a sequential number or other unique identification. Any reference in the Agreement to "Solution & Fee Schedule" shall refer collectively to all Solution & Fee Schedules hereunder.
<b>Software Schedule</b>	Schedule setting forth additional terms applicable specifically to the software components of the Solutions.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed and effective as of the Effective Date.

MCG HEALTH, LLC

PRESIDENT, BOARD OF SUPERVISORS, SAN  
MATEO COUNTY

By: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

ATTEST:

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: Clerk of Said Board

Date: \_\_\_\_\_

# MLA TERMS AND CONDITIONS

1. Definitions. In addition to the terms defined above, the following terms shall have the following meanings whenever used in this Agreement with initial letters capitalized:

(a) "Authorized Use" shall mean the permitted scope of use of each of the Solutions applicable to a particular Licensed Basis Metric and to be exercised by a particular set of Authorized Users as specifically identified on a Solution & Fee Schedule. For the avoidance of doubt, there may be different Authorized Uses for different Solutions, different Licensed Basis Metrics, or different Authorized Users.

(b) "Copy Policy" shall mean MCG's Policy for Copying and Distribution of the Guidelines as may be amended by MCG, in its sole discretion, from time to time. A copy of the most current version of the Copy Policy is available on MCG's website at: <http://www.mcg.com/content/licensing-terms>.

(c) "Documentation" shall mean the technical and user manuals, installation guides, and any "read me" or "help" files, made available to Licensee by MCG in connection with the Solutions.

(d) "Guidelines" shall mean one (1) or more publications of the *MCG Care Guidelines*® developed by MCG, in each case solely to the extent such Guideline is identified on a Solution & Fee Schedule to this Agreement and licensed hereunder.

(e) "Licensed Basis Metric" shall mean the metric used to enumerate the Licensed Basis, whether covered lives, members, enrollees, hospital beds, or other applicable metric as identified on a Solution & Fee Schedule.

(f) "Licensed Basis" shall mean the authorized scope in connection with which Licensee may use the Solutions as enumerated by the actual count of Licensee's Licensed Basis Metric as set forth on a Solution & Fee Schedule. The Licensed Basis may be modified from time to time as set forth herein.

(g) "Security Policy" shall mean MCG's Policy for securing its systems and customer data as may be amended by MCG, in its sole discretion, from time to time. A copy of the most current version of the Security Policy is available on MCG's website at: <https://www.mcg.com/security-policy/>

(h) "Solutions" shall mean the solutions (including any applicable Guidelines) of MCG identified on each Solution & Fee Schedule to this Agreement and licensed hereunder, including any Upgrades to such solutions released by MCG during the Term. Licensee shall have no rights under this Agreement with respect to any solutions or offerings not specifically identified on a Solution & Fee Schedule.

(i) "Upgrade" shall mean any updates, upgrades, modifications, corrections, or new releases of any of the Solutions that are generally made available at no additional cost to MCG's licensees under a current license agreement with MCG.

## 2. License Scope and Limitations.

(a) License Grant. MCG hereby grants to Licensee subject to the terms and conditions of this Agreement, a limited, non-exclusive, nontransferable, license to access and use the Solutions for its Authorized Use (the "License").

(b) Scope of License. Licensee may use the Solutions only for its own Authorized Use and only to the extent of its Licensed Basis, and in all cases in accordance with the Copy Policy. Licensee shall not use the Solutions for any purpose other than as expressly set forth herein. For the avoidance of doubt, except in each case as expressly set forth herein, Licensee shall not (i) use, copy, alter, create derivative works of, allow access to, rent, or sublicense any complete or partial Solution, except as expressly provided in this Agreement, (ii) reverse-engineer, decompile, disassemble or otherwise make any attempt to access the source code of any software that is a part of the Solutions licensed hereunder; (iii) use the Solutions on behalf of any third party; (iv) allow access to the Solutions by any third party or (v) remove, alter or cover any copyright notices or other proprietary rights notices placed or embedded by MCG

on or in the Solutions. Licensee shall ensure that all copies of the Solutions contain the same notices and legends which appear in and on the Solutions as supplied by MCG. Notwithstanding anything herein to the contrary, under no circumstances shall Licensee use the Solutions, or any portion thereof, to develop a competitive product to any Solution.

(c) Derivative Works.

(1) Permitted Modifications. Subject to the terms of this Agreement, MCG grants to Licensee the limited right to modify and or create derivative works from the Guidelines for the sole purpose of conforming the content of the Guidelines to its internal practices and policies (such modified Guidelines hereafter the “Permitted Modifications”). Any Permitted Modifications made to the Guidelines hereunder shall incorporate a notice that conspicuously identifies changes from the standard Guidelines through the use of boldface type, italics, underlined text of some similar method of identification. All such Permitted Modifications, whether in electronic or printed form, must be labeled with the following statement and any statement to the contrary or association of the modified material with MCG is strictly prohibited:

This guideline contains content that differs from the standard *MCG Care Guidelines*® and has not been reviewed or approved by MCG Health, LLC. All other unmodified content is copyright © MCG Health, LLC.

Notwithstanding any other provision of this Agreement, Licensee shall not create derivative works from or modify in any manner the CPT File as defined in Section 10 below.

(2) Ownership and Use of Derivative Works. MCG shall own all right title and interest in and to any Permitted Modifications created hereunder and Licensee hereby irrevocably assigns any and all rights of any kind that it may now or in the future have in or to such Permitted Modifications. Upon creation, the Permitted Modifications shall be considered a part of the Solutions as that term is used in this Agreement and all obligations and restrictions with respect to the Solutions set forth in this Agreement shall apply equally to the Permitted Modifications.

(d) Retention of Rights; Updates. The Solutions and their content are proprietary to or licensed by MCG. MCG and its licensors reserve all rights in the Solutions and their content not expressly granted to Licensee under this Agreement. Licensee shall not challenge MCG’s ownership or rights in the Solutions, and shall not assist or cooperate with any third party in bringing such a challenge. MCG reserves the right to monitor, collect, and retain usage information regarding the Solutions. Such information is and shall remain solely the property of MCG. MCG reserves the right to modify or publish a revised version of any or all of the Solutions at any time without prior notice to Licensee. If MCG deems any such update an “emergency update”, MCG shall provide such emergency update to Licensee and, within ten (10) days’ of Licensee being provided with such update, Licensee shall make no further use of the pre-existing version of the updated Solutions (such versions, the “Pre-Update Solutions”) and must use the updated version of the Solutions, as provided to Licensee by MCG, from that point forward. Any breach by Licensee of this Section 2 shall be deemed a material breach by Licensee of this Agreement.

(e) Upgrades. MCG shall make available to Licensee all Upgrades during the term of this Agreement at no additional cost.

(f) Licensed Basis and Audit.

(1) Licensed Basis Reporting. Licensee shall promptly notify MCG of any increase in the Licensed Basis. MCG reserves the right to also validate the actual Licensed Basis reported by Licensee or as set forth on the applicable Solution & Fee Schedule against third party resource publications (e.g. the American Hospital Association Guide). If either Licensee’s report or any such third party report reveals that the count of Licensee’s Licensed Basis Metric exceeds the Licensed Basis specified on the Solution & Fee Schedule(s), then the Licensed Basis and the corresponding license fees, in each case as set forth on the applicable Solution & Fee Schedule for the current year of the Term and all subsequent years, shall be deemed revised to reflect such updated count.

(2) Review and Audit. Licensee shall maintain all books and records related to its access and use of the Solutions (collectively, the "Records"), including, without limitation: (i) records sufficient to demonstrate the actual count of its Licensed Basis Metric by month throughout the Term; and (ii) all Permitted Modifications. MCG shall have the right to review Licensee's reported basis from time to time including entering onto Licensee's premises, or causing a third party agent to enter onto Licensee's premises, and audit the Records, including any facilities or systems in or on which the Records are created, kept or maintained, for the purpose of verifying Licensee's compliance with the terms of this Agreement. Any on-site audit conducted shall be performed during Licensee's normal business hours with at least ten (10) business days advance notice and shall be conducted so as to reasonably minimize the impact upon Licensee's business operations. If such review or audit reveals any use in excess of the actual count of Licensee's Licensed Basis Metric, MCG may, at its option, (i) calculate the additional fees that should have been paid based on the rates set forth on the Solution & Fee Schedule and Licensee shall pay such fees immediately upon receipt of MCG's invoice for the same and (ii) update the applicable Solutions & Fee Schedule to increase (x) the count of Licensee's applicable Licensed Basis Metric to equal the highest actual count of Licensee's Licensed Basis Metric for which license fees are paid hereunder and (y) the license fees set forth on the applicable Solution & Fee Schedule applicable to any subsequent contract years (to reflect the new Licensed Basis count.)

### 3. Term and Termination.

(a) Term of Agreement. Unless earlier terminated as set forth herein, this Agreement shall be effective as of the Effective Date and continue for a period of 36 months, ending on 9/29/2021 (the "Initial Term"). Thereafter, this Agreement shall automatically renew for successive periods, each of the same duration as the Initial Term (each a "Renewal Term") each at the renewal rate applicable at the time of such renewal unless notice of non-renewal is provided in accordance with Section 3(b), below. The Initial Term together with all subsequent Renewal Terms are collectively referred to herein as the "Term". The date of expiration or termination of this Agreement shall be referred to herein as the "Termination Date".

(b) At least ninety (90) days before the end of the Initial Term or the then-current Renewal Term, MCG shall send to Licensee written notice of the applicable renewal rate, which shall include the license fees applicable for each year of the Renewal Term along with the applicable rate for any increases in Licensed Basis that occur during such Renewal Term if applicable. Either party may give notice of non-renewal in its sole and absolute discretion by providing written notice of non-renewal to the other party at least sixty (60) days prior to the end of the term then in effect. If neither party gives notice of non-renewal pursuant to this subsection, Licensee shall be deemed to have agreed to the applicable renewal rate for the next Renewal Term and shall provide notice of its Licensed Basis Metric count at least sixty (60) days prior to the start of the next Renewal Term in accordance with Section 2(f), above.

(c) Termination for Breach. If either party breaches this Agreement, and does not cure such breach to the non-breaching party's reasonable satisfaction within thirty (30) days of receipt of notice of breach, the non-breaching party may terminate this Agreement without further notice. Notwithstanding the foregoing, MCG shall have the right to terminate this Agreement immediately upon notice to Licensee in the event that Licensee's breach materially impairs or infringes any of MCG's intellectual property or other proprietary rights in the Solutions or their content, or otherwise violates the obligations set forth in Sections 2 or 8, hereof.

(d) Actions on Termination. Any and all rights of Licensee in and to the Solutions shall immediately cease as of the Termination Date. Within ten (10) business days of the Termination Date, Licensee shall deliver to MCG all tangible copies of the Solutions, or any portion thereof, in the possession or under the control of Licensee, its employees or agents and shall delete all electronic copies of the Solutions from Licensee's computers and data storage devices. Licensee shall provide MCG written certification of such return or destruction within ten (10) days of the Termination Date. MCG shall maintain an archive copy of each prior version of the Solutions used by Licensee and, notwithstanding the first sentence of this Section 3(d), shall make such archived copies available to Licensee at Licensee's request in PC-CD or Web format, in MCG's discretion, solely to the extent required by Licensee for purposes of retrospective review, audit, litigation, or regulatory action or as otherwise agreed to by the parties. Licensee's retrospective access shall otherwise be governed by the same terms and conditions as set forth in this Agreement with respect to Licensee's Authorized Use of the Solutions. Retention of the Solutions to the extent they are incorporated into the medical records of Licensee's patients as of the Termination

Date, and solely to the extent such retention is required by applicable law (and Licensee shall destroy or return such Solutions to MCG upon MCG's written request following such required retention period) is also permitted. Licensee shall have no right to continue any Authorized Use of the Solutions after the Termination Date. As of the Termination Date, Licensee shall not be entitled to the return of any fees paid to MCG hereunder; provided, however, that in the case where such termination was the result of MCG's material breach of this Agreement which remained uncured thirty (30) days after notification by Licensee, MCG shall reimburse Licensee any license fees paid to the extent applicable to any period subsequent to the Termination Date. The following sections shall survive expiration, cancellation or termination of this Agreement for any reason: 1, 2(c)(2), 2(d), 2(f)(2), 3(d), 4(a), 4(b), 5, 6(b), 6(c), 7, 8, 9, 11, and 19.

#### 4. License Fees and Payment.

(a) License Fee and Payment. Licensee shall be obligated to pay MCG license fees as specified on each Solution & Fee Schedule to this Agreement. Except as otherwise expressly set forth in this Agreement: (i) MCG will invoice Licensee for amounts to be paid hereunder, which shall be collected on a single invoice for all license fees due under all applicable Solution & Fee Schedules, and Licensee will pay the amounts described in each such invoice within thirty (30) days of receipt; (ii) Licensee shall not be entitled to the return or reimbursement of any fees paid to MCG pursuant to this Agreement; (iii) all fees shall be paid to MCG in United States dollars; and (iv) all fees and costs associated with delivery of payment are solely the responsibility of Licensee.

(b) Effect of Failure to Pay. Any sums not paid when due hereunder shall accrue interest at a rate of one and one-half percent (1.5%) per month from the date first due. Licensee also shall be responsible for any and all costs of collection for any sums not paid when first due. If, at any time, Licensee is delinquent in the payment of any fees hereunder or is otherwise in material breach of the Agreement, then MCG may, in its sole discretion and without prejudice to its other rights, suspend access to the Solutions. The non-payment when due of any license fee set forth on a Solution & Fee Schedule shall constitute a material breach of this Agreement.

(c) Taxes and Tax-Exempt Status. Licensee shall be responsible for all applicable governmental taxes, assessments, fees, and duties in connection with the transactions contemplated by this Agreement (excluding taxes based on MCG's net income or its authority to do business within a given jurisdiction), unless Licensee provides MCG in advance with an applicable and valid tax exemption certificate authorized by the applicable governmental authority. If MCG receives notice from a taxing authority that such authority considers any taxes to be owed as set forth above, notwithstanding Licensee's provision of a tax exemption certificate, MCG shall have the right to have Licensee pay (or reimburse to MCG if MCG elects to pay) such taxes.

#### 5. Protection of the Solutions.

(a) Network Access. Licensee agrees to take all reasonable precautions to safeguard the confidentiality of passwords, logons, or other security measures utilized by MCG to limit access to the Solutions. Licensee must take all reasonable steps to monitor, control, and restrict access to the Solutions through access credentials supplied to Licensee by MCG, including, but not limited to, the use of firewalls and password-protected logons to prevent use or copying of the Solutions by unauthorized persons.

#### (b) Confidentiality.

(i) "Confidential Information" means any type of proprietary information, data, or knowledge which is disclosed at any time from one party hereto (the "Disclosing Party") to the other party hereto (the "Receiving Party") which the Disclosing Party desires to protect against unrestricted disclosure or unauthorized use, regardless of the form of disclosure or the party through whom disclosure is made. "Confidential Information" of MCG expressly includes the Solutions and their content as well as this Agreement.

(ii) The Receiving Party shall hold all Confidential Information of the Disclosing Party in confidence and shall not disclose or permit to be disclosed through the Receiving Party to any person, entity or governmental body, or personnel thereof, or use other than as expressly permitted by this Agreement, any Confidential Information of the Disclosing Party. The Receiving Party shall only



disclose Confidential Information to employees who have a need to know such information for the purpose of enforcing such party's rights under this Agreement or performing its obligations under this Agreement. The Receiving Party shall ensure that each such person maintains the confidentiality of the Disclosing Party's Confidential Information in accordance with the terms of this Agreement and shall be responsible for any breach by such persons of the confidentiality restrictions contained herein.

(iii) The obligations of the Receiving Party set forth in Subsection 5(b)(ii) shall not apply to any Confidential Information of the Disclosing Party which: (i) was in the public domain at the time of the Disclosing Party's communication thereof to the Receiving Party; (ii) enters the public domain through no fault of the Receiving Party subsequent to the time of the Disclosing Party's communication thereof to the Receiving Party; (iii) was in the Receiving Party's possession free of any obligation of confidentiality at the time of the Disclosing Party's communication thereof to the Receiving Party; (iv) is developed by the Receiving Party completely independent from the Confidential Information of the Disclosing Party; or (v) is required by law or regulation to be disclosed, but only to the extent and for the purpose of such required disclosure after providing the Disclosing Party with advance written notice if reasonably possible such that the Disclosing Party is afforded an opportunity to contest the disclosure or seek an appropriate protective order. The Receiving Party shall have the burden of proving the existence of any of the exceptions described in this Subsection.

(iv) The Confidential Information of the Disclosing Party shall be and remain the exclusive property of the Disclosing Party. Upon the written request of the Disclosing Party, the Receiving Party shall deliver to the Disclosing Party or destroy all of same in the Receiving Party's possession, custody or control, and the Receiving Party shall not retain any copies thereof; provided that, MCG may retain a copy of Licensee's Confidential Information to comply with any applicable work product documentation requirements subject to the obligations of confidentiality contained in this Agreement.

## 6. Warranties and Remedies.

(a) Limited Warranty. MCG warrants that: (i) the Solutions will perform, at all times during the Term, materially in accordance with their Documentation; (ii) it will take commercially reasonable steps to provide the Solutions to Licensee free from computer viruses or other malicious code; and (iii) it will comply in all material respects with the Security Policy. MCG shall not be deemed to be engaged in the practice of medicine or the dispensing of medical services.

(b) DISCLAIMER OF ADDITIONAL WARRANTIES. MCG DISCLAIMS ALL OTHER EXPRESS AND ALL IMPLIED WARRANTIES INCLUDING WITHOUT LIMITATION THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE OF LICENSEE. THE SOLUTIONS DO NOT CONSTITUTE PROCEDURES FOR THE PRACTICE OF MEDICINE AND MCG DISCLAIMS ANY WARRANTY THAT FOLLOWING THE SOLUTIONS CONSTITUTES REASONABLE OR ORDINARY CARE IN THE PROVISION OF HEALTH CARE SERVICES TO ANY INDIVIDUAL PATIENT. EXCEPT AS EXPRESSLY SET FORTH HEREIN, THE SOLUTIONS ARE PROVIDED "AS IS" WITHOUT WARRANTY OF ANY KIND. MCG DOES NOT MAKE ANY REPRESENTATIONS OR WARRANTIES REGARDING THE USE, INSTALLATION, OR THE RESULTS OF THE USE, OF THE SOLUTIONS OR THE AVAILABILITY OR PERFORMANCE OF THE SOLUTIONS ACCESSED THROUGH THE INTERNET. LICENSEE IS SOLELY RESPONSIBLE FOR ITS INSTALLATION AND USE OF THE SOLUTIONS AND DOES SO AT LICENSEE'S SOLE RISK. THE EXPRESS WARRANTIES HEREIN ARE NOT APPLICABLE IN CASES OF ACCIDENT, MISUSE, MISAPPROPRIATION, DAMAGE IN TRANSIT, ABUSE, IMPROPER STORAGE OR INSTALLATION, POWER SURGE, OR UNAUTHORIZED ATTEMPTED REPAIR OR MODIFICATION.

(c) Exclusive Remedies. In the event of any failure of the Solutions to satisfy the warranties set forth in Section 6(a), above, MCG shall, at no additional cost to Licensee, respond and support the Solutions. The remedies described in this Section 6(c) are the sole obligations of MCG and exclusive remedies of Licensee for any breach of the limited warranties set forth in Section 6(a), above.

(d) Authority. Each party hereby represents and warrants that: (i) it has all the authority necessary to make the agreements and accept the obligations set forth in this Agreement; (ii) entering into this Agreement does not conflict with or violate the terms of any other obligation or agreement of any kind of such party; and (iii) the individual executing the Agreement on its behalf is

authorized to bind such party to all of the terms of the Agreement and such party intends to be bound thereby.

7. LIMITATION OF LIABILITY. UNDER NO CIRCUMSTANCES SHALL MCG BE LIABLE TO LICENSEE OR ANY THIRD PARTY FOR ANY INDIRECT, INCIDENTAL, COLLATERAL, SPECIAL OR CONSEQUENTIAL DAMAGES, OR ANY OTHER PECUNIARY LOSS ARISING OUT OF THE INSTALLATION, USE, OR INABILITY TO USE, THE SOLUTIONS (INCLUDING, WITHOUT LIMITATION, ANY LOSS OF DATA, COST OF PROCUREMENT OF SUBSTITUTE GOODS, DISRUPTION OF BUSINESS, LOSS OF PROFITS, OR ANY OTHER MATTER RELATING TO LICENSEE'S USE OR INABILITY TO USE THE SOLUTIONS), OR OTHERWISE RELATED IN ANY WAY TO THIS AGREEMENT OR THE SUBJECT THEREOF, WHETHER ARISING UNDER THEORIES OF CONTRACT, NEGLIGENCE, STRICT LIABILITY, TORT, OR OTHER THEORY, REGARDLESS WHETHER MCG HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT SHALL MCG'S LIABILITY UNDER ANY PROVISION OF THIS AGREEMENT OR OTHERWISE EXCEED THE TOTAL AMOUNT ACTUALLY RECEIVED BY MCG FROM LICENSEE UNDER THIS AGREEMENT DURING THE TWELVE (12) MONTHS IMMEDIATELY PRECEDING ANY CLAIM. THE LIMITATIONS, EXCLUSIONS AND DISCLAIMERS SET FORTH IN THIS SECTION 7 SHALL APPLY TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, EVEN IF ANY REMEDY FAILS OF ITS ESSENTIAL PURPOSE. NO OBLIGATION OR LIABILITY SHALL ARISE FROM MCG'S RENDERING OF TECHNICAL OR OTHER ADVICE OR SERVICE IN CONNECTION WITH THIS AGREEMENT, INCLUDING, WITHOUT LIMITATION, ADVICE OR SERVICE RELATED TO THE INSTALLATION OR CONFIGURATION OF THE SOLUTIONS.

8. Proper Use and Attribution of the Solutions. The Solutions are not intended to, and shall not, be used without the judgment of a qualified health care provider with the ability to take into account the individual circumstances of each patient's case. Licensee shall be solely responsible for ensuring that the Solutions are used only in accordance with this Agreement and consistent with their intended purpose and proper use. Licensee shall include a statement explaining the intended and proper use of the Solutions as set forth above as part of any communication, correspondence, report or any tangible or electronic document incorporating or referencing any portion of the Solutions or their use by Licensee. In no event shall Licensee represent, directly or indirectly, to any party that any payment or treatment decision was, or is to be, based solely on the Solutions. MCG shall not be liable to Licensee or any third party for any claims or damages arising out of any party's use of the Solutions in any manner for which they were not intended or inconsistent with the restrictions set forth herein. Licensee agrees that it shall be solely responsible for responding to any inquiries received from any party related to Licensee's use of the Solutions.

9. Indemnification.

(a) MCG Intellectual Property Indemnification. MCG shall indemnify, defend, and hold Licensee, its employees and directors harmless from any claims, liabilities, obligations, judgments, causes of actions, costs and expenses, including reasonable attorneys' fees, incurred by Licensee which result from any claim by a third party that the Solutions infringe the third party's United States patent, trademark or copyright provided such alleged infringement does not result from Licensee's actions.

If Licensee is enjoined from using the Solutions as a result of infringement entitling Licensee to indemnification under this section, or MCG reasonably believes that the Solutions may become subject to such action, MCG shall promptly, at its option, either (i) modify the Solutions in a manner required to eliminate the infringement, or (ii) terminate this Agreement and refund to Licensee any license fee paid by Licensee to MCG pro-rated for the remainder of the Term.

(b) Licensee Indemnification. Licensee shall indemnify, defend, and hold MCG, its affiliates, and their employees and directors (hereafter for purposes of this Section "MCG") harmless from any claims, liabilities, obligations, judgments, causes of actions, costs and expenses, including reasonable attorney's fees, incurred by MCG resulting from or related to: (i) any use by Licensee of the Solutions for other than their intended purpose or in a manner inconsistent with their Documentation or this Agreement, including, without limitation, failure to comply with the requirements of Section 8, above; (ii) any use by Licensee of any Pre-Update Solutions beyond the time limits set forth in Section 2(d); or (iii) any claim, action or proceeding relating to the personal injury or death of any patient.

(c) Notification, Control and Assistance. The indemnified party shall promptly notify the indemnifying party in writing of any suits, claims or demands against the indemnified party for which the indemnifying party is responsible. The indemnified party shall give the indemnifying party full opportunity and authority to assume the sole defense of and settle such suits (provided that the indemnifying party shall not settle any such claim without the written consent of the Indemnified Party unless such settlement does not impose any restrictions on the indemnified party or require it to admit to any liability or wrong doing); and the indemnified party shall furnish to the indemnifying party upon request all information and assistance available to the indemnified party for defense against such suit, claim or demand.

10. Limited Warranty and Remedies re American Medical Association CPT Codes. The Solutions may contain CPT codes (the "CPT File") which are copyrighted by the American Medical Association (the "AMA") and published by MCG under license from the AMA. CPT is a registered trademark of the AMA. The inclusion of the CPT File in the Solutions is dependent on the existence of a contractual relationship between the AMA and MCG. Licensee acknowledges that the CPT File is provided "as is" and that the AMA makes no warranty of any kind, either express or implied, including, but not limited to, the implied warranties of merchantability and fitness for a particular purpose. The AMA bears no responsibility for problems as to the quality or performance of the CPT File. The AMA has no responsibility for any servicing, repair or correction if the CPT File proves to be defective. AMA does not warrant that the data contained in the CPT File will meet Licensee's requirements or that the operation of the CPT File will be uninterrupted or without error.

The AMA disclaims any liability for any consequences due to use, misuse or interpretation of information contained or not contained in the CPT File. Licensee acknowledges that in no event will AMA be liable to Licensee for any damages, including any lost profits, lost savings or other incidental, special or consequential damages for any claim by Licensee or any other party arising out of the use of the CPT File or the sequence, accuracy or completeness of the data contained in the CPT File. The AMA's sole responsibility with respect to the CPT File is to make available to MCG replacement copies of the CPT File if the CPT File is not intact.

11. Government Data Rights Notice if Government Personnel Have Access. Licensee acknowledges that the Solutions contain confidential and trade secret information of MCG and, as applicable, commercial computer software. It is the parties' intent that the Solutions and their content shall be free from disclosure to the public pursuant to any applicable open records or similar laws, rules or regulations. The parties agree to take all reasonable efforts to protect the Solutions and their content from such disclosure and classify the Solutions and their content appropriately under such applicable laws rules and regulations to effect such protection.

12. Export Controls. Licensee shall not export the Solutions, in whole or in part, to any country outside the United States, whether in tangible or electronic form without the written consent of MCG.

13. Injunctive Relief and Remedies. Licensee acknowledges and agrees that monetary damages alone would be an inadequate remedy in the event of a breach by Licensee of its obligations under this Agreement and that, in such event, MCG shall be entitled to obtain injunctive relief to require Licensee to comply with its obligations hereunder. Any remedy of MCG under this Agreement shall be cumulative and not exclusive of any other remedy available to MCG under this Agreement, at law or in equity.

14. Independent Contractor. Nothing in this Agreement shall be construed to create an employer/employee, agency or joint venture relationship between the parties or between individuals providing services on behalf of MCG, and MCG shall be considered an independent contractor of Licensee to the extent it provides any services hereunder.

15. Assignment. Neither party may assign or transfer this Agreement or any rights or obligations hereunder (including by operation of law, merger or change of control) without the prior written consent of the other party, which shall not be unreasonably withheld. Subject to the foregoing, this Agreement shall bind and inure to the benefit of MCG, Licensee, and their respective representatives, heirs, successors and assigns. Any purported assignment or transfer in conflict with the terms of this Section 15 is null and void.



16. Severability. If any provision of this Agreement is held to be invalid or unenforceable for any reason, the parties agree that such invalidity or unenforceability shall not affect any other provision of this Agreement. Any court of competent jurisdiction may so modify the objectionable provisions as to make them valid and enforceable.

17. Waiver. The failure of either party at any time to require performance by the other party of any provision of this Agreement shall in no way affect the right of the party failing to require performance to require such performance at any time thereafter. The waiver by either party of a breach of any provision hereof shall not constitute a waiver of any succeeding breach of the same or any other provision, or constitute a waiver of the provision itself.

18. Entire Agreement. This Agreement, inclusive of the schedules and addenda attached hereto, constitutes the entire understanding between the parties with reference to the subject matter hereof and no statements or agreements, oral or written made prior to the signing of this Agreement shall vary or modify the written terms hereof. No amendment or modification of this Agreement or waiver of any of the provisions hereof shall be valid unless made in writing and signed by the parties.

19. Governing Law and Dispute Resolution. The interpretation, construction and enforcement of this Agreement shall be governed by the internal laws of the State of California. The parties each hereby irrevocably waive any right to a jury trial in connection with any controversy, claim or dispute arising out of or relating to this Agreement or its subject matter (each a "Dispute"). The parties further agree that any such Dispute that the parties cannot resolve informally shall be resolved exclusively by a bench trial before a United States District Court of appropriate jurisdiction. The parties hereby expressly waive their right to have any Dispute heard in any other forum or manner.

20. Force Majeure. Neither party will be liable or responsible to the other for any loss or damage or for any delays or failure to perform due to causes beyond its reasonable control.

21. Notices. Any notice provided for in this Agreement must be in writing and must be either personally delivered, mailed by first class mail (registered or certified, return receipt requested), or sent via overnight air courier guaranteeing next day delivery, to the recipient at the address listed below. Any notice under this Agreement shall be deemed to have been given and delivered upon receipt or attempted delivery (if receipt is refused), as the case may be, to Licensee at the address identified below (if completed) or as reflected on the Solution & Fee Schedule, or to MCG at the following address:

MCG Health, LLC  
901 Fifth Avenue, Suite 2000  
Seattle, WA 98164  
Attn: Contracts [or Finance] Department  
Email: [contracts@mcg.com](mailto:contracts@mcg.com)

with a copy to:  
Hearst Communications, Inc.  
300 West 57<sup>th</sup> Street  
New York, NY 10019  
Attn: Office of General Counsel

**If to Licensee (for all notices):**

\_\_\_\_\_  
\_\_\_\_\_  
Attn: \_\_\_\_\_  
Email: \_\_\_\_\_  
Phone: \_\_\_\_\_

**with a copy to:**

\_\_\_\_\_  
\_\_\_\_\_  
Attn: \_\_\_\_\_  
Email: \_\_\_\_\_  
Phone: \_\_\_\_\_

22. Section Headings/Counterparts. The section headings used in this Agreement are for convenience and reference purposes only and shall not affect the meaning or interpretation of this Agreement. This Agreement may be executed in one or more counterparts, each of which will be deemed an original but all of which together will constitute one and the same instrument.

23. Solution End of Life. MCG may, in its sole discretion, discontinue any particular Solution or Solution version, with one hundred and eighty (180) days advance written notice that such Solution or version is being discontinued. Following such notice period, Licensee shall cease use of the discontinued Solutions and any prepaid fees for such discontinued Solutions shall be refunded.

24. Security Policy. MCG agrees to comply with the Security Policy.

## Solution & Fee Schedule

### TERM

The Term of this Agreement shall be 36 months, beginning 9/30/2018 and ending 9/29/2021

### AUTHORIZED USERS

"Authorized User" shall mean any of Licensee's employees within the United States who perform health care delivery services for Licensee's patients, members and/or enrollees in the normal course of Licensee's business. "Authorized User" also includes agents or contractors within the United States (collectively, "Administrative Agents") of Licensee solely to the extent they exclusively perform traditional "back-office" functions, such as information systems management, accounting or administration, for the sole benefit of Licensee provided that such agents or contractors are: 1) not a competitor of MCG, 2) under an obligation of confidentiality with Licensee, and 3) have no direct contact with Licensee's or any third party's patients, members and/or enrollees.

### AUTHORIZED USE

For purposes of this Schedule, "Authorized Use" means access and use of the Solutions by Authorized Users as part of the administration of health care benefits for the population comprising the Licensed Basis where Licensee is in the position of accepting financial risk for the health care delivered to such patient population or acts on behalf of a third party in the position of accepting financial risk for such care. For the avoidance of doubt, Authorized Use does not include any use wherein any Authorized User is a provider of any health care services to the applicable patient population.

### LICENSE BASIS METRIC

The Licensed Basis Metric applicable to the Solutions and Authorized Use identified on this Schedule shall be:

Site	Authorized Use	Basis Type	Basis Count	Solutions	Format
Behavioral Health & Recovery Services	Medical Management of Populations with risk	Covered Lives	150098	Behavioral Health Care; CareWebQI Medical Management Module; CareWebQI Guideline Modification Module; Application Infrastructure; CareWebQI	Hosted
Behavioral Health & Recovery Services	Medical Management of Populations with risk	Covered Lives	150098	Behavioral Health Care; Interrater Reliability Module	Web

Licensee may migrate from the Stand Alone version of the Software to the integrated version of the Solution, or vice versa, at no additional charge upon notice to MCG. Upon such notice, MCG will provide Licensee with an updated Solution and Fee Schedule and Integration Schedule to memorialize this migration.

A second software database will be provided for testing/training purposes only.

### FEE FOR INCREASE IN LICENSED BASIS

The fee for an increase in the Licensed Basis shall be based on the Per Basis Per Year (PBPY) rates as follows:

Authorized Use	Basis Y1	Basis Y2	Basis Y3	Basis Y4	Basis Y5
Medical Management of Populations with risk	\$0.6898	\$0.7174	\$0.7461	\$	\$
Medical Management of Populations with risk	\$0.0893	\$0.0929	\$0.0966	\$	\$

### GROWTH CAP PERCENTAGE

The Growth Cap Percentage shall be 10%.

Pursuant to Section 2(f) of this Agreement, in the event of an increase in the Licensed Basis above the Growth Cap Percentage specified herein, MCG shall invoice Licensee for additional payments incurred as a result of an increase in the Licensed Basis calculated at the PBPY rate shown above.

**FEE SCHEDULE AND SUMMARY**

Fees do not include applicable shipping or taxes. All annual fees include an Application Infrastructure fee.

Year 1 - \$116,959.25 Due within thirty (30) days from receipt of invoice

Year 2 - \$121,637.63 Due by first Anniversary Date

Year 3 - \$126,503.12 Due by second Anniversary Date

**Invoicing/Billing Contact:**

Scott Gruendl

Assistant Director

Behavioral Health & Recovery Services

225-37th Avenue, 3rd Floor, San Mateo, CA 94403

## Software Schedule

1. Scope Of License Limitation. For purposes of this Schedule, the term "Software" shall mean, collectively, if licensed pursuant to an applicable Solution & Fee Schedule, *CareWebQI*®, the *Cite*™ AutoAuth Module, *Cite*™ for Utilization Review, *Indicia*™ for Utilization Review, *Indicia*™ for Care Management, *Indicia*™ for Admission Support and *Cite*™ Care Integrated. To the extent that the Software is licensed as hosted by MCG, the following additional limitations shall apply:

a. The Software may be accessed and used solely through the Internet in accordance with the Agreement.

b. Licensee shall not download and retain electronic copies of the Software except to the extent necessary to access and use the Software in accordance with the Agreement.

c. Licensee shall not maintain a copy of the Software in a cache or similar storage on a network server.

2. Government Procurement. The Software is "commercial computer software" and the Documentation is "commercial computer software documentation" as those terms are used in 48 C.F.R. 12.212 (Oct. 1998) of the Federal Acquisition Regulations and 48 C.F.R. 227.7202 (Oct. 1997) of the DoD supplement to the Federal Acquisition Regulations and their successors and shall be designated in a comparable manner under such state laws or regulations as may be applicable. No government entity shall have any rights in or to the Software and/or the Documentation except for those rights expressly granted in the Agreement.

3. Access Misuse. Licensee shall not misuse access to the Software under this Agreement. Misuse of access shall include any of the following: (a) unauthorized access to or use of any data, systems or networks; (b) monitoring data or traffic on any network or system; (c) interference or attempted interference with service to any user of the Software or other network or system; (d) uploading or transmitting any information or software which contains a virus, cancelbot, trojan horse, worm or other harmful component; or (e) violating the security of any computer network, cracking passwords or security encryption codes, transferring or storing illegal material including that deemed threatening or obscene, or engaging in any kind of illegal activity through access or use of the Software

4. Misuse Indemnity. Licensee shall indemnify and hold MCG, its employees and directors harmless from any claim, expense, loss or damage, including reasonable attorney's fees, incurred by MCG resulting from or related to any misuse of Licensee's access to the Software as defined in Section 3, above.

5. Licensee Data. Upon termination of this Agreement, MCG shall provide to Licensee any of Licensee's data stored on MCG systems pursuant to this Agreement and shall delete all copies thereof from all MCG systems.