



## Suture Health Terms of Service and User Agreement

This User Agreement ("Agreement") is entered into by and between SutureHealth, Inc. ("SutureHealth") and you, the user ("you", "your", or "user"), and governs your use of the SutureHealth, Inc. Internet web site, software, and related information, data, and other content on that web site ("Content"). The web site is available on the World Wide Web at the Uniform Resource Locator ("URL") <http://www.SutureSign.com> ("the Website").

1. **Agreement with SutureHealth.** SutureHealth hereby grants you a limited, non-exclusive, non-assignable and non-transferable license to access and use the on-line services and software available at the Website, provided and expressly conditioned on your agreement and satisfaction of the terms and conditions in this Agreement. This license may be revoked by SutureHealth in whole or in part, at any time, with or without cause. You agree and represent that you have the authority to use this application and submit patient information into said application.
2. **Access.** Certain portions of the Website and certain Content will be accessible only to users previously identified to SutureHealth who meet criteria established by SutureHealth ("Authorized Users") based on information provided by them or on their behalf. You may not access such portions of the Website or such Content unless you meet all criteria of an Authorized User. You may not permit any other person to access the Website or the Content using your user identification, name or password. All information you provide to SutureHealth must be current, accurate, and complete. You are responsible for any acts or omissions relating to your use of the Website, and for any damages incurred as a result thereof. **YOU ARE AWARE THAT YOU ARE RESPONSIBLE FOR ALL HARDWARE AND SOFTWARE REASONABLY NECESSARY TO ACCESS THE SERVICE AND TO USE THE ELECTRONIC SIGNATURE FUNCTION.**
3. **Patient Data and Legal Compliance.** You represent and warrant that you will, at all times during the term of this Agreement and thereafter, comply with all laws directly or indirectly applicable to you that may now or hereafter govern the gathering, use, transmission, processing, receipt, reporting, disclosure, maintenance, and storage of the Content, including without limitation confidential patient information, and use your best efforts to cause all persons or entities under your direction or control to comply with such laws. You are, at all times during the term of this Agreement and thereafter, responsible for obtaining and maintaining all patient consents and all other legally necessary consents or permissions required or advisable to disclose, process, retrieve, transmit, and view the Content you transmit, store or receive in connection with the Website or the services provided thereon. You agree that SutureHealth, our licensors, and all other persons or entities involved in the operation of services provided through the Website, have the right to monitor, retrieve, store and use Content in connection with the operation of the Website. **SUTUREHEALTH CANNOT AND DOES NOT ASSUME ANY RESPONSIBILITY FOR YOUR USE OR MISUSE OF CONTENT TRANSMITTED, MONITORED, STORED OR RECEIVED USING THE WEBSITE. THE ONLY PERMITTED USE OF WWW.THE WEBSITE AND THE PATIENT RELATED CONTENT IS FOR**



TREATMENT, PAYMENT AND HEALTHCARE OPERATIONS OF COVERED ENTITIES AS DEFINED IN THE HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996, AS AMENDED BY THE HEALTH INFORMATION TECHNOLOGY FOR ECONOMIC AND CLINICAL HEALTH ACT UNDER THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009 (HIPAA). ANY OTHER USE OF THIS SERVICE IS CONSIDERED A VIOLATION OF THE HIPAA PRIVACY REGULATIONS AND THIS AGREEMENT.

**4. Title to Intellectual Property.** You acknowledge that SutureHealth owns all right, title and interest in and to the Content and the Website (the “Intellectual Property”), and use by you inures to SutureHealth. You acknowledge that nothing in this Agreement gives you title or permanent interest in the Intellectual Property and you understand that you have no claim of any nature in and to the Intellectual Property.

**5. Restrictions.** You agree to use the Website and the Content for lawful and permitted purposes only. You agree not to post or transmit any information through the Website which (1) infringes the rights of others or violates their privacy or publicity rights, (2) is unlawful, threatening, abusive, defamatory, libelous, vulgar, obscene, profane, indecent or otherwise objectionable, or (3) is protected by copyright, trademark, privacy laws or other proprietary right without the express permission of the owner of such right. You shall be solely liable for defending against and for any damages resulting from any infringement of copyright, trademark or other legal or proprietary right, or any other harm resulting from any uploading, posting or submission. You shall indemnify SutureHealth in accordance with Section 14 for any claims or actions brought by third parties who allege that you have violated this Section 5.

**6. Consent to Storage and Disclosure of Personal Information and Being Contacted.** YOU CONSENT TO THE ELECTRONIC STORAGE AND DISCLOSURE OF PERSONALLY IDENTIFIABLE INFORMATION INCLUDING BUT NOT LIMITED TO NAME, E-MAIL, AND PROFESSIONAL PRACTICE INFORMATION. YOU ALSO CONSENT TO BEING CONTACTED BY ANY AND ALL MEANS PROVIDED TO OTHER USERS OF THE SYSTEM AS DEEMED APPROPRIATE BY SUTUREHEALTH.

**7. Consent to Electronic Signatures.** YOU CONSENT TO USE OF ELECTRONIC SIGNATURES WITH DOCUMENTS RELATED TO THIS AGREEMENT. YOU ARE AWARE THAT SUCH CONSENT TO THE USE OF ELECTRONIC SIGNATURES IS APPLICABLE TO TRANSACTIONS CONSUMMATED USING THE WEBSITE. YOU MAY WITHDRAW YOUR CONSENT TO USE OF ELECTRONIC SIGNATURES BY PROVIDING A NON- ELECTRONIC SIGNED WRITING WITHDRAWING SUCH CONSENT TO SUTUREHEALTH. For the purpose of this Agreement, “Electronic Signature” means an electronic symbol or process attached to or logically associated with a document or record and executed or adopted by you with the intent to sign the record. You further agree to be legally bound by such electronic signatures and agree that SutureHealth’s process adequately identifies you as the signer and proves intent.



8. Submissions. (a) Any suggestions, ideas, notes, drawings, concepts or other purportedly original or novel conceptions or theories of any kind submitted to SutureHealth (collectively, "Ideas") shall be deemed, and shall remain, the sole and absolute property of SutureHealth. Except as set forth in our Privacy Policy, none of the Ideas shall be subject to any obligation of confidence on the part of SutureHealth, and SutureHealth shall not be liable for any use or disclosure of any Ideas. Without limiting the foregoing, SutureHealth shall exclusively own all now known or hereafter existing rights to the Ideas of every kind and nature throughout the universe and shall be entitled to unrestricted use, not inconsistent with our Privacy Policy, of the Ideas for any purpose whatsoever, commercial, or otherwise, without compensation to the provider of the Ideas. (b) You hereby grant to SutureHealth a worldwide, royalty-free, perpetual, irrevocable, non-exclusive right and license to use, reproduce, modify, adapt, publish, translate, create derivative works from, distribute, perform and display any message posted in the forums at the Website or any e-mail sent by you to SutureHealth (in whole or in part) and to incorporate it in other works in any form, media or technology now known or later developed, except to the extent any of the foregoing would be inconsistent with the Privacy Policy of SutureHealth.
9. Changes to Agreement. SutureHealth reserves the right to modify the terms and conditions of this Agreement and the Content and features of the Website without prior notice to you. Upon changes to the Agreement, SutureHealth shall endeavor to post such notice of modifications electronically. You agree to be bound by the terms and conditions of this Agreement as modified.
10. Password Disclosure. If, at any time, you learn or suspect that your user name or login password has been disclosed or otherwise made known to any person other than yourself, you agree to immediately notify SutureHealth via e-mail or in writing.
11. Delays or Interruptions in Services. Neither SutureHealth nor any of its licensors, licensees and third-party providers (including their officers, directors, employees, affiliates, agents, representatives or subcontractors) shall be liable for any loss or liability resulting, directly or indirectly, from the unavailability of the Website or the Content therein. SutureHealth shall have no responsibility to provide continuous access to the Website.
12. Termination. SutureHealth may immediately terminate this Agreement with or without cause. Termination or cancellation of this Agreement shall not affect any right or relief to which SutureHealth may be entitled, at law or in equity. Upon termination of this Agreement, all rights granted to you will immediately terminate and revert to SutureHealth.
13. Monitoring. You acknowledge and agree that SutureHealth may monitor any and all transmissions sent or received through the Website. SutureHealth, at its sole discretion and without further notice to you, may (but is not obligated to) review, censor or prohibit the transmission or receipt of, or delete or block access to, any material that SutureHealth deems inappropriate or objectionable or in violation of any term or condition of this Agreement.



14. Disclaimer of Warranties. THE INFORMATION ON THIS WEBSITE IS PROVIDED "AS IS" AND ALL WARRANTIES, EXPRESS OR IMPLIED, ARE DISCLAIMED, INCLUDING, BUT NOT LIMITED TO, THE DISCLAIMER OF ANY IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, ANY WARRANTIES ARISING BY VIRTUE OF CUSTOM OF TRADE OR COURSE OF DEALING AND ANY IMPLIED WARRANTIES OF TITLE OR NON-INFRINGEMENT OR ADEQUACY TO PRODUCE ANY PARTICULAR RESULT.

YOU ACKNOWLEDGE AND AGREE THAT THE SERVICES, RESULTS OF THE SERVICES AND/OR ANY STATEMENTS MADE ABOUT ANY OF THE SERVICES AVAILABLE THROUGH SUTUREHEALTH.COM HAVE NOT BEEN EVALUATED BY ANY U.S. OR OTHER GOVERNMENTAL AUTHORITY, INCLUDING WITHOUT LIMITATION, THE FOOD AND DRUG ADMINISTRATION (THE "FDA"), AND THAT THESE SERVICES ARE NOT INTENDED TO DIAGNOSE, TREAT, CURE OR PREVENT ANY DISEASE. SUTUREHEALTH.COM DOES NOT CONTAIN ALL MEDICAL INFORMATION THAT MAY BE RELEVANT AND SHOULD NOT BE USED AS A SUBSTITUTE FOR SEEKING PROFESSIONAL MEDICAL ADVICE, DIAGNOSIS, TREATMENT OR CARE. ALL SPECIFIC MEDICAL QUESTIONS YOU HAVE ABOUT ANY MEDICAL CONDITION, TREATMENT, CARE OR DIAGNOSIS SHOULD BE PRESENTED TO A PROFESSIONAL HEALTHCARE PROVIDER.

SUTUREHEALTH DOES NOT WARRANT THAT THE FUNCTIONS OR CONTENT CONTAINED IN THE WEB SITE WILL BE UNINTERRUPTED OR ERROR-FREE, THAT DEFECTS WILL BE CORRECTED, OR THAT THIS SITE OR THE SERVER THAT MAKES IT AVAILABLE ARE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS.

15. Limitation of Liability. IN NO EVENT WILL SUTUREHEALTH BE LIABLE TO YOU FOR ANY INDIRECT, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES, INCLUDING ANY LOST PROFITS, LOST DATA, OR LOST SAVINGS, WHETHER BASED ON BREACH OF CONTRACT, BREACH OF WARRANTY, TORT, PRODUCT LIABILITY, OR ANY OTHER LEGAL THEORY EVEN IF SUTUREHEALTH HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. OUR MAXIMUM LIABILITY TO YOU UNDER ALL CIRCUMSTANCES WILL BE EQUAL TO THE PURCHASE PRICE YOU PAY FOR ANY GOODS, SERVICES OR INFORMATION IN THE PREVIOUS 12 MONTH PERIOD.

16. Indemnification. YOU AGREE TO RELEASE, INDEMNIFY, DEFEND AND HOLD HARMLESS SUTUREHEALTH, ITS LICENSORS, AND THIRD-PARTY PROVIDERS (INCLUDING THEIR OFFICERS, DIRECTORS, EMPLOYEES, AFFILIATES, AGENTS, REPRESENTATIVES OR CONTRACTORS) FROM AND AGAINST ALL CLAIMS BROUGHT BY ANY PERSONS ARISING FROM OR RELATING TO YOUR VIOLATION OF THIS AGREEMENT OR USE OF THE WEBSITE OR THE CONTENT.



17. Privacy. You hereby acknowledge having read and accept and agree to all terms and conditions of SutureHealth's Privacy Policy, which are hereby incorporated into and made part of this Agreement.

18. No Conflicting Terms. If there is any conflict between this Agreement and any other documents regarding the subject matter of this Agreement or the services, products or Content you access, acquire or receive through the Website, then the provisions of this Agreement shall govern, whether such other documents are prior to or subsequent to this Agreement, or are signed or acknowledged by any director, officer, employee, representative or agent of SutureHealth.

19. If a dispute arises out of or relates to the Content on the Website or any other terms of this Agreement, and if the dispute cannot be settled through negotiation, the parties hereto agree to first try in good faith to settle the dispute by mediation administered by the American Arbitration Association under its Commercial Arbitration Rules and Mediation Procedures or agreed upon by the parties, and the cost of such mediation shall be equally split between the parties.

If the dispute is not resolved within sixty (60) days of its submission to the mediator, either party may submit the dispute for binding arbitration. If the matter in dispute is \$100,000 or less, there shall be one arbitrator who shall be agreed to by the two parties. If the amount is in excess of \$100,000, there shall be three arbitrators, with each party appointing one, and the third being selected by the first two arbitrators. The arbitration shall be conducted in accordance with the commercial rules of the American Arbitration Association, which shall administer the arbitration. The arbitration, including the rendering of the award, shall take place in Birmingham, Alabama and shall be the exclusive forum for resolving such dispute. The decision of the arbitrators shall be final and binding upon the Parties and the expense of the arbitration, including, without limitation, the award of attorneys' fees to the prevailing Party, shall be paid as the arbitrators determine.

20. Attorney's Fees. If SutureHealth takes action and prevails (by itself or through its representatives) to enforce any of the provisions of this Agreement, including collection of damages or any amounts due hereunder, or if SutureHealth prevails in defense of an action brought by you or your agent, SutureHealth shall be entitled to recover from you (and you agree to pay), in addition to all sums to which it is entitled or any other relief, at law or in equity, reasonable and necessary attorney's fees and any costs of any litigation.

21. Governing Law; Limitations; Venue. This Agreement shall be governed by the laws of the State of Alabama. To the extent allowed by applicable law, any claims or causes of action arising from or relating to your access and use of the Website contemplated by this Agreement must be instituted within one (1) year from the date upon which such claim or cause arose or accrued. Further, any such claim or cause of action may only be brought in the state or federal courts located in Birmingham, Jefferson County, Alabama and you agree to submit to the exclusive personal jurisdiction of such courts and hereby appoint the Secretary of State of the State of



Alabama as your agent for service of process. You agree to waive any objection that the state or federal courts of Alabama are an inconvenient forum.

22. Assignment. You may not assign any rights, obligations or privileges under this Agreement without the prior written consent of SutureHealth. Any assignment other than as provided for in this Section shall be null and void.

23. Severability. If any provision of this Agreement is found unlawful or unenforceable in any respect, the court shall reform such provision so as to render it enforceable or, if it is not possible to reform such provision so as to make it enforceable, then delete such provision. As so reformed or modified, the court shall fully enforce this Agreement.

## SECTION 2. Acceptable Use Policy ("AUP")

Use of the Services is subject to this Acceptable Use Policy.

If not defined here, capitalized terms have the meaning stated in the applicable contract ("Agreement") between Customer or other authorized user ("You") and SutureHealth.

You agree not to, and not to allow third parties or Your End Users, to use the Services:

1. to violate, or encourage the violation of, the legal rights of others;
2. for any unlawful, invasive, infringing, defamatory, or fraudulent purpose;
3. to intentionally distribute viruses, spyware, malware, worms, Trojan horses, corrupted files, hoaxes, or other items of a destructive or deceptive nature;
4. to interfere with the use of the Services, or the equipment used to provide the Services, by Customers, authorized resellers, or other authorized users;
5. to alter, disable, interfere with, circumvent, or cause harm to any aspect of the Services; or
6. to test or reverse-engineer the Services in order to find limitations, vulnerabilities or evade filtering capabilities.

Your failure to comply with the AUP may result in suspension or termination with cause, or both, of the Services pursuant to the Agreement.

## SECTION 3. HIPAA Business Associate Agreement

WHEREAS, You are or are a representative of a Covered Entity (Covered Entity) and SutureHealth, Inc, (SutureHealth) is a Business Associate, both parties intend to protect the privacy and security of certain Protected Health Information (PHI) to which SutureHealth may have access in order to provide goods or services to or on behalf of Covered Entity, in accordance with the Health Insurance Portability and Accountability Act of 1996, the Health



Information Technology for Economic and Clinical Health (HITECH) Act, Title XIII of Division A and Title IV of Division B of the American Recovery and Reinvestment Act of 2009 (ARRA), Pub. L. No. 111-5 (Feb. 17, 2009) and related regulations, the HIPAA Privacy Rule (Privacy Rule), 45 C.F.R. Parts 160 and 164, as amended, the HIPAA Security Rule (Security Rule), 45 C.F.R. Parts 160, 162 and 164, as amended, and other relevant laws, including subsequently adopted provisions applicable to use and disclosure of confidential information, and applicable agency guidance.

WHEREAS, SutureHealth may receive PHI from Covered Entity, or may create or obtain PHI from other parties for use on behalf of Covered Entity, which PHI may be used or disclosed only in accordance with this Agreement and the standards established by applicable laws and agency guidance.

WHEREAS, SutureHealth may receive PHI from Covered Entity, or may create or obtain PHI from other parties for use on behalf of Covered Entity, which PHI must be handled in accordance with this Agreement and the standards established by HIPAA, the HITECH Act and related regulations, and other applicable laws and agency guidance.

NOW, THEREFORE, Covered Entity and SutureHealth agree as follows:

1. Definitions.

- A. "Business Associate" shall have the meaning given to such term under HIPAA, the HITECH Act, applicable regulations and agency guidance.
- B. "Covered Entity" shall have the meaning given to such term under HIPAA, the HITECH Act and applicable regulations and agency guidance.
- C. "HIPAA" shall mean the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191.
- D. "HITECH Act" shall mean the Health Information Technology for Economic and Clinical Health (HITECH) Act, Title XIII of Division A and Title IV of Division B of the American Recovery and Reinvestment Act of 2009 (ARRA), Pub. L. No. 111-5 (Feb. 17, 2009).
- E. "Privacy Rule" shall mean the standards for privacy of individually identifiable health information in 45 C.F.R. Parts 160 and 164, as amended, and related agency guidance.
- F. "Protected Health Information" or "PHI" means any information, transmitted or recorded in any form or medium; (i) that relates to the past, present or future physical or mental condition of an individual; the provision of health care to an individual; or the past, present or future payment for the provision of health care to an individual, and (ii) that identifies the individual or with respect to which there is a reasonable basis to believe the information can be used to identify the individual, and shall have the meaning given to such term under HIPAA, the HITECH Act and related regulations and agency guidance. PHI also includes any and all information that can be used to identify a current or former applicant or recipient of benefits or services of Covered Entity (or Covered Entity's contractors/Business Associates).
- G. "Security Rule" shall mean the security standards in 45 C.F.R. Parts 160, 162 and 164, as amended, and related agency guidance.



H. "Unsecured PHI" shall mean PHI that is not secured through the use of a technology or methodology as specified in HITECH regulations and agency guidance or as otherwise defined in the HITECH Act.

2. Stated Purposes For Which SutureHealth May Use Or Disclose PHI. The Parties hereby agree that SutureHealth shall be permitted to use and/or disclose PHI provided by or obtained on behalf of Covered Entity for the following stated purposes, except as otherwise stated in this Agreement:

- A. Forming a designated record set for the purpose of maintaining a patient-centric record of data entered into the system, which will be accessible only to authenticated users, including physicians and their representatives.
- B. Providing an electronic signature service to appropriate subscribers.
- C. Providing billing information to physicians and/or their representatives.
- D. Providing expedient and electronic notification of appropriate patient information (i.e. laboratory reports) to physicians and their representatives.
- E. Providing a secure messaging platform, the contents of which may contain PHI.
- F. Any other permitted uses and/or disclosures authorized under HIPAA and HITECH.

### 3. SUTUREHEALTH OBLIGATIONS:

A. Limits On Use And Further Disclosure Established By Agreement And Law. SutureHealth hereby agrees that the PHI provided by, or created or obtained on behalf of Covered Entity shall not be further used or disclosed other than as permitted or required by this Agreement or as required by law and agency guidance.

B. Appropriate Safeguards. SutureHealth shall establish and maintain appropriate reasonable safeguards to prevent any use or disclosure of PHI other than as provided for by this Agreement. Appropriate reasonable safeguards shall include implementing administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the electronic PHI that is created, received, maintained, or transmitted on behalf of the Covered Entity and limiting use and disclosure to applicable minimum necessary requirements as set forth in applicable federal and state statutory and regulatory requirements and agency guidance.

C. Reports Of Improper Use Or Disclosure. SutureHealth hereby agrees that it shall report to Covered Entity within five (5) business days of discovery or such other reasonable time period under the circumstances any use or disclosure of PHI not provided for or allowed by this Agreement.

D. Reports Of Security Incidents. In addition to following the breach notification requirements in section 13402 of the Health Information Technology for Economic and Clinical Health Act of 2009 ("HITECH Act") and related regulations, agency guidance and other applicable federal and state laws, SutureHealth shall report to Covered Entity within five (5) business days of discovery



or such other reasonable time period under the circumstances any security incident of which it becomes aware.

**E. Subcontractors And Agents.** SutureHealth hereby agrees that any time PHI is provided or made available to any subcontractors or agents, SutureHealth shall provide only the minimum necessary PHI for the purpose of the covered transaction and shall first enter into a subcontract or contract with the subcontractor or agent that contains the same terms, conditions and restrictions on the use and disclosure of PHI as contained in this Agreement.

**F. Right Of Access To PHI.** SutureHealth hereby agrees to allow an individual who is the subject of PHI maintained in a designated record set, to have access to and a copy of, in electronic format if requested, that individual's PHI within five (5) business days or such other reasonable time period as provided for by law of receiving a written request from Covered Entity. However, if Covered Entity is able to provide the PHI for the individual making the request, Covered Entity shall provide such PHI and release SutureHealth from this obligation unless it pertains to a particular service provided by SutureHealth. SutureHealth shall provide PHI to the extent and in the manner required by 45 C.F.R. § 164.524 and other applicable federal and state law and agency guidance. If any individual requests from SutureHealth or its agents or subcontractors access to PHI, SutureHealth shall notify Covered Entity of same within five (5) business days or such other reasonable time period under the circumstances. SutureHealth shall further conform with and meet all of the requirements of 45 C.F.R. §164.524 and other applicable laws, including the HITECH Act and related regulations, and agency guidance.

**G. Amendment And Incorporation Of Amendments.** Within ten (10) business days of receiving a request from Covered Entity for an amendment of PHI maintained in a designated record set, SutureHealth shall make the PHI available and incorporate the amendment to enable Covered Entity to comply with 45 C.F.R. §164.526, applicable federal and state law, including the HITECH Act and related regulations, and agency guidance provided that the Covered Entity cannot incorporate the amendment on its own. If any individual requests an amendment from SutureHealth or its agents or subcontractors, SutureHealth shall notify Covered Entity within five (5) business days or such other reasonable time period under the circumstances.

**H. Provide Accounting Of Disclosures.** SutureHealth agrees to maintain a record of all disclosures of PHI in accordance with 45 C.F.R. §164.528 and other applicable laws and agency guidance, including the HITECH Act and related regulations. Such records shall include, for each disclosure, the date of the disclosure, the name of the recipient of the PHI, a description of the PHI disclosed, and the name of the individual who is the subject of the PHI disclosed. SutureHealth shall make such record available to the individual or the Covered Entity within five (5) business days or such other reasonable time period under the circumstances of a request for an accounting of disclosures.



**I. Requests For Restriction.** SutureHealth shall comply with requests for restrictions on disclosures of PHI about an individual in order to comply with the Privacy Rule, as amended, and other applicable statutory and regulatory requirements and agency guidance.

**J. Access To Books And Records.** SutureHealth hereby agrees to make its internal practices, books, and records relating to the use or disclosure of PHI received from, or created or received by SutureHealth on behalf of the Covered Entity, available to the Secretary of Health and Human Services or designee for purposes of determining compliance with applicable laws and agency guidance, subject to any privileges or defenses, including but not limited to, attorney client privilege, patient physician privilege and such other privileges or defenses that may be asserted to protect the confidentiality of information.

**K. Return Or Destruction Of PHI.** At termination of this Agreement, SutureHealth hereby agrees to return or destroy all PHI provided by or obtained on behalf of Covered Entity. SutureHealth agrees not to retain any copies of the PHI after termination of this Agreement. If return or destruction of the PHI is not feasible, SutureHealth shall provide to Covered Entity notification of the conditions that make return or destruction infeasible. SutureHealth shall extend the protections of this Agreement to such Protected Health Information and limit further uses and disclosures of such Protected Health Information to those purposes that make the return or destruction infeasible, for so long as SutureHealth maintains such Protected Health Information.

**L. Maintenance Of PHI.** Notwithstanding Section 3(k) of this Agreement, SutureHealth and its subcontractors or agents shall retain all PHI throughout the term of the Agreement and shall continue to maintain the information required under the various documentation requirements of this Agreement (such as those in §3(h)) for a period of six (6) years from entry into the system or one (1) year after termination of the Agreement, whichever is later.

**M. Mitigation Procedures.** SutureHealth agrees to establish and to provide to Covered Entity upon request, procedures for mitigating, to the maximum extent practicable, any harmful effect from the use or disclosure of PHI in a manner contrary to this Agreement or the Privacy Rule, as amended. SutureHealth further agrees to mitigate any harmful effect that is known to SutureHealth of a use or disclosure of PHI by SutureHealth in violation of this Agreement or applicable laws and agency guidance.

**N. Sanction Procedures.** SutureHealth agrees that it shall develop and implement a system of sanctions for any employee, subcontractor or agent who violates this Agreement, applicable laws or agency guidance.

**O. Grounds For Breach.** Non-compliance by SutureHealth with this Agreement or the Privacy or Security Rules, as amended, is a breach of the Agreement, if SutureHealth knew or reasonably should have known of such non-compliance and failed to take reasonable steps to cure the non-



compliance once it was known. A BREACH IS NOT CONSTITUTED IF UNAUTHORIZED ACCESS TO PHI WAS ACHIEVED THROUGH NO FAULT OF SUTUREHEALTH.

P. Termination. Upon Covered Entity's knowledge of a material breach by SutureHealth, Covered Entity shall provide an opportunity for SutureHealth to cure the breach or end the violation. If SutureHealth does not cure the breach or end the violation within the time specified by Covered Entity, which is to be no less than ten (10) business days or such other time period as mutually agreed upon by the parties, Covered Entity may terminate this Agreement.

Q. Failure To Perform Obligations. In the event SutureHealth fails to perform its obligations under this Agreement, Covered Entity may immediately discontinue providing PHI to SutureHealth.

#### 4. OBLIGATIONS OF COVERED ENTITY:

A. Provision of Notice of Privacy Practices. Covered Entity shall provide SutureHealth with the notice of privacy practices that the Covered Entity produces in accordance with applicable law and agency guidance, as well as changes to such notice.

B. Permissions. Covered Entity shall provide SutureHealth with any changes in, or revocation of, permission by individual to use or disclose PHI of which Covered Entity is aware, if such changes affect SutureHealth's permitted or required uses and disclosures.

C. Restrictions. Covered Entity shall notify SutureHealth of any restriction to the use or disclosure of PHI that the Covered Entity has agreed to in accordance with 45 C.F.R. §164.522 and other applicable laws and applicable agency guidance, to the extent that such restriction may affect SutureHealth's use or disclosure of PHI. Covered Entity shall not request SutureHealth to use or disclose Protected Health Information in any manner that would not be permissible under the Privacy Rule unless SutureHealth will use or disclose protected health information for data aggregation or management and administrative activities of SutureHealth.

D. Mitigation Procedures. Covered Entity agrees to establish and to provide to SutureHealth upon request, procedures for mitigating, to the maximum extent practicable, any harmful effect from the use or disclosure of PHI in a manner contrary to this Agreement or the Privacy Rule, as amended. Covered Entity further agrees to mitigate any harmful effect that is known to Covered Entity of a use or disclosure of PHI by Covered Entity in violation of this Agreement or applicable laws and agency guidance.

Force Majeure. Each party shall be excused from delays in performing or from failing to perform its obligations under this Agreement to the extent the delays or failures result from causes beyond the reasonable control of the party, including, but not limited to, acts of God, natural disasters, acts of terrorism or war, U.S. or foreign governmental actions, labor shortages or strikes, fire, flood or epidemics that make a party unable to perform their obligations under this Agreement.



YOU MAY OBTAIN A COPY OF ANY ELECTRONIC RECORD BY REQUESTING SUCH A PAPER DOCUMENT, ALTHOUGH COPY OR DIGITAL MEDIA EXPENSES MAY APPLY.

Entire Agreement. THIS AGREEMENT IS COMPLETE AND EFFECTIVE AT THE TIME YOU AGREE TO IT BY CLICKING ON THE BUTTON INDICATED FOR ACCEPTANCE IN CONNECTION WITH THE PERIODIC AUTHORIZATION PROCEDURES TO ACCESS SUTUREHEALTH.COM. THE USER AGREEMENT AND PRIVACY POLICY CONSTITUTE THE ENTIRE AGREEMENT BY AND BETWEEN THE PARTIES.