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## TERMS & CONDITIONS

**1. SCOPE.** These Terms and Conditions (“T&C”) shall apply to any Customer Agreement, or any other agreement with DoctorLogic, LLC (“DL”), including any Business Associate Agreement (each, as applicable, an “Agreement”), into which these T&C are expressly incorporated by reference. DL may modify these T&C from time to time on a commercially reasonable basis as otherwise determined in its sole discretion. Section 19 includes additional defined terms and an index of defined terms used in these T&C. Capitalized terms not otherwise defined in these T&C have the meaning given to them in the Agreement.

**2. SET-UP FEES AND MONTHLY FEES.** Customer will pay all Set-Up Fees, Monthly Fees & Other Fees (collectively the “Fees”) as invoiced by DL in US Dollars in the amount to be due at the beginning of each month but no later than 15 days from receipt of invoice unless otherwise specified in the Agreement, plus all applicable taxes, charges, penalties and fees imposed by any governmental body (excluding any and all taxes measured by income of DL). Fees not paid timely shall incur a late charge equal to the lesser of (a) 1.5% of the outstanding balance per month or (b) the highest amount not deemed usurious by any applicable law. The Set-Up Fee shall be payable on the Effective Date unless otherwise specified in the Agreement. Unless otherwise specified in the Agreement, the Monthly Fee shall be billed (pro-rated for any partial month) starting on the earlier of (i) the Launch Date or (ii) 90 days from the Effective Date if the Launch Date is delayed by Customer once the implementation of the Project has begun, provided that DL has acted in good faith to complete its obligations to provide the Licensed Products for purposes of the Launch Date. Thereafter, the Monthly Fee shall be billed on the beginning of each month during the Term (pro-rated for any partial month at the end of the Term).

**3. DL SOFTWARE ADMIN TOOLS.** Customers may be granted secure access rights to the DL Software for the purpose of managing the Licensed Products using DL Software’s Administrative Tools (“Admin Tools”), which will be granted to Customer by DL, as determined solely by DL on a case-by-case basis for Customer. As a general rule, access to Admin Tools is strictly limited to Customer and any active Personnel of Customer based on the Licensed Products or packages of Licensed Products (“Packages”). Customer may request access to Admin Tools by third-parties other than Personnel as long as the individual is not considered by DL to be a competitor, Affiliate of a competitor or party unrelated to Customer. Customer is responsible for the actions of any individual granted access to the Admin Tools. Admin Tool access shall cease at the end of any the Term.

**4. PRODUCT DEFINITIONS.** The following information defines the products offered by DL for license by any Customer and its Affiliates (as applicable) as Licensed Products.

(a) **WEBSITE.** The “Website” is the collection of Web Pages, which may be organized by DL into relevant Web Page classes, used as an online marketing tool for a Customer, hosted on a single unique URL that receives consumer-facing traffic. Websites are developed and managed through the use of the DL Software with Admin Tools, if applicable. Websites include a Design targeted for various internet browsers (both personal computer and mobile) used by a significant number of consumers, as determined by DL in its sole discretion. Each mobile version of the Website is designed for popular smart mobile telephones and tablet devices, and it includes a subset of existing features for use on different devices and user interfaces, in each case as determined by DL in its sole discretion. ADA website accessibility standards have not yet been finalized by the U.S. Department of Justice or any other federal governmental authority under Article III (public accommodations) of the ADA. Accordingly, DL makes no representation or warranty that any Website is ADA-compliant, whether or not DL offers Customer the option of selecting an accessibility tool offered by a third-party provider and whether or not Customer selects such option. (DL will continue to monitor this developing area of federal law and, in consultation with legal counsel, will modify Website products and services as necessary and appropriate in its commercially reasonable judgment.)

(b) **CONTENT.** “Content” shall be any fonts, colors, words, images, data, marks, illustrations, audio or any other creative content through any medium used on any Web Page. For purposes of the Agreement, Content is considered either (i) Customer Content or (ii) DL Content, as further described in the Agreement.

(i) **GALLERIES.** A “Gallery” is structured photo or video gallery Web Pages and dynamic list pages for hosting compliant, valid, unduplicated before and after procedure images & videos performed by Customer of de-identified actual patients based on valid consent forms and authorizations obtained and stored by Customer. Customer acknowledges and agrees that it will only publish, or direct DL to publish, any patient information and images (including Protected Health Information) to a Gallery that it has received rights and is authorized to publish from the patient, in compliance with federal, state and local law, for the purposes described in the Agreement as evidenced by the patient’s valid and signed authorization. Customer further acknowledges and confirms that its authorization is compliant with HIPAA Requirements, as well as any other applicable federal, state and local laws and medical association, board or society rules and regulations governing use of Protected Health Information. For the avoidance of doubt, Customer is responsible for all Customer Content in each Gallery, including, any information about a patient, such as photos, names, initials, sources, age, weight, height, ethnicity, gender, locations, descriptions, procedures, techniques, equipment, tags, data ranges, priorities, case histories or any other information that could identify a patient or any other Protected Health Information. DL has the right, as determined in its sole

discretion, to reject any Customer Content to be used in a Gallery. Galleries are considered customized Customer Content pursuant to the Agreement.

(ii) **STOCK IMAGES.** “*Stock Images*” are any stock photography and stock videos licensed by DL from a third party to be used by a Customer on its Website, and Stock Images may not be used by a Customer for any other purpose. Stock Images shall be used on Customer’s Website at DL’s sole discretion including banner images, category images, header images, footer images, background images and non-Customer Content procedure images. DL may license the Stock Images, which will be chosen from the DL image library to Customer; however, use of these Stock Images may be restricted geographically and by Healthcare Specialty. Should suitable Stock Images not be available in the DL image library, as determined by DL in its sole discretion, DL shall license at its own expense up to 10 new Stock Images as part of the Project. Stock Images are part of DL Content. Stock Image license rights cannot be transferred, and Customer acknowledges and agrees it will not request or allow any subsequent website provider to copy or use any Stock Images upon termination of the Agreement without DL’s prior written consent.

(c) **REPUTATION.** “*Reputation*” shall mean the structured Review Web Pages and dynamic list pages for hosting compliant, valid, unduplicated Reviews from actual patients based on valid consent forms and authorizations obtained by Customer. Reputation also includes integration and alerts with popular review websites and the ability to prioritize, publish and edit Reviews to the Website. Customers using this Licensed Product shall have the ability to manage its reputation and solicit patient reviews, reputation scores, case studies, blogs and testimonials (collectively a “*Review*”). Customer acknowledges and agrees that it will only publish, or direct DL to publish, any Reviews, including any integrated third-party website reviews, for which it has received rights and is authorized to publish to the Website, and such publication will be in compliance with applicable federal, state and local law. Customer is responsible for all Content in each Review, including Protected Health Information. DL has the right to reject any Review in its sole discretion. Reviews are considered customized Customer Content pursuant to the Agreement.

(d) **SOCIAL (OPTIONAL).** “*Social*” is the branding and linking of certain social media websites of Customer to create a common Design with banners and links to and from the Websites or posted for an additional charge to popular Social Media Websites. Such branding and linking will be limited to normal and customary social media websites as determined by DL on a commercially reasonable basis. Customer must already have the social media website page(s) or presence created and provide log-in credentials to DL to allow for the publication of banners. Active scheduled management of the social media websites (including, scheduled posts, social reporting and custom articles) are considered out of scope and shall be performed only pursuant to an applicable SOW. “*SOCIAL LEADS*” is the professional management of Social campaigns sending clicks to the Website on behalf of the Customer. Social Leads is an optional service. If selected and funded by Customer each month based on pre-determined budgets, DL shall manage Customer’s Social Leads on *Facebook/Instagram* including keyword research and selection, creative ad composition and testing, campaign development and implementation, analysis & optimization, budgeting and bid strategy management, conversion tracking, support & consultation and reporting metrics. All Social Lead Fees are due and payable in advance by Customer on a pre-determined monthly budget as further described in the Agreement.

(e) **SEARCH (OPTIONAL).** “*Search*” is the proactively and on-going monthly management of SEO for the Website. SEO services shall only include the use of white-hat SEO procedures and philosophies, as determined by DL in its sole discretion, consistent with currently documented *Google Webmaster Best Practices*. Search may also include various improvements to Google strategies and SEO technology at no extra charge that are automatically provided at the sole discretion of DL. DL shall use Keyword Science to create and manage the Website’s SEO, including DL’s Interlinking service which is the process of linking relevant portions of Content between Web Pages at the sole discretion of DL for the purpose of creating indexable and consumer-friendly Content and lists of Content that can be accessed by search engines and consumers. Off-page SEO services such as link building are considered out-of-scope and shall be performed only pursuant to an applicable SOW.

(f) **LEADS.** “*Leads*” is all lead tracking activities, including phone tracking, phone recording, email delivery and conversion performance, for the Website. Each Website has a pre-determined set of conversion elements built into any Design such as forms and tracking numbers. Within the Leads Licensed Product, Customer shall receive access to an “Opportunity Dashboard of Lead Sources” in the Admin Tools. All Websites include automated telephone and email lead tracking (up to 1,000 free long distance minutes per month with \$0.05 per minute overages). All client leads of Customer are considered Customer Content. Email delivery and routing is managed by DL for Customer. Email hosting and management is the sole responsibility of Customer. Form field modifications are considered out of-scope and shall be performed only pursuant to an applicable SOW.

(g) **ANALYTICS.** “*Analytics*” is all reporting data, on-demand reports, daily performance summaries, monthly reports and quarterly reviews for the Website and, if applicable, other Licensed Products. All Customer Analytics from third party tools are considered Customer Content. Customized reports are considered out of scope and shall be performed only pursuant to an applicable SOW.

(h) **SUCCESS.** “*Success*” is the human support activities provided to Customer for the Website and any other Licensed Products. To the extent set forth in the Agreement, any applicable SOW or any other agreement between DL and Customer, during normal business hours

as reasonably determined by DL, Customer shall receive (i) included support for all in-bound telephone and email requests and (ii) proactive outbound support to review Licensed Product performance along with Admin Tool training and suggested best practices.

(i) **PPC (OPTIONAL)**: “PPC” is the professional management of PPC campaigns sending clicks to the Website on behalf of the Customer. PPC is an optional service. If selected and funded by Customer each month based on pre-determined budgets, DL shall manage Customer’s PPC on *Google AdWords* including keyword research and selection, creative ad composition and testing, campaign development and implementation, analysis & optimization, budgeting and bid strategy management, conversion tracking, support & consultation and reporting metrics. All PPC Fees are due and payable in advance by Customer on a pre-determined monthly budget as further described in the Agreement.

(j) **CHAT (OPTIONAL)**. “*Chat*” is an optional service that interacts with Website visitors via chat tools displayed on the Website in strategic locations that collect contact information along with some basic information about a visitor’s needs and pass it on to Customer in a secure manner with the Admin Tools. Chat is an optional service. If selected and funded by Customer each month based on a pre-determined budget as further described in the Agreement, DL shall manage Customer’s Chat Leads pursuant to an applicable SOW. Chat service operates 24 hours per day/7 days per week. DL only charges its Customers for each Billable Lead. Customer may dispute DL’s classification of a Billable Lead with the Admin Tool. A “*Billable Lead*” is defined as a name plus telephone or email address obtained by or for DL through a Chat generated from Customer’s Website who has expressed interest in Customer’s business. Chat Leads that do not meet these criteria, for example Chat Leads from someone inquiring about their existing account or about a job opening, are not Billable Leads. Customer will receive a notification that links to the secure details of the Chat. Customer agrees to pay for all Billable Leads as set forth in the Agreement.

(k) **VIDEOS (OPTIONAL)**. “*Videos*” is the professional creation or publication of Video Content to the Website on behalf of Customer. Videos is an optional service. If selected and funded by Customer, DL (or its authorized third-party representatives) shall provide pre-production, on-site production and post production of a collection of Videos based on the Agreement. Customers may also provide DL with existing video Customer Content that can be published to the Website; Videos must use formatting, encoding, quality and size restrictions as defined by DL in its sole discretion. Customer is responsible for all video Customer Content, including, any information about a patient and other information and images that could re-identify a patient. DL has the right to reject any Video in its sole discretion. Notwithstanding anything herein to the contrary, all videos supplied by Customer shall be Customer Content.

**5. SUBSTITUTIONS & MODIFICATIONS.** DL may substitute any Licensed Product or Package with a substantially similar Licensed Product or Package under the Agreement without Customer’s consent, upon prior notice to Customer, if there is no additional Fee charged to Customer and, upon such substitution, the substituted Licensed Product or Package shall be deemed a Licensed Product or Package for the purposes of the Agreement. DL may add, remove or modify any features in the Licensed Products in its sole discretion.

**6. HOSTING & SUPPORT.** During the Term, DL Software will be located and the Website hosted in a professional datacenter facility (“*Datacenter*”) on servers, devices and equipment (collectively, “*Equipment*”) that DL deems suitable in its sole discretion. The Datacenter will provide 24/7/365 colocation hosting services, bandwidth, connectivity, security, asset management and power for the DL Software and the Website. DL may relocate some or all Equipment to another Datacenter or multiple Datacenters without notice to Customer. DL may schedule commercially reasonable downtime periods for server and hosting maintenance between 10:00 p.m. Central Time and 6:00 a.m. Central Time as determined by DL in its sole discretion. In its sole discretion, DL may perform any necessary maintenance to the DL Software. DL may provide Customer or its Affiliates (as applicable) with a commercially reasonable amount of on-line and telephone-based support during DL’s normal business hours to cover the use of each Licensed Product pursuant to the Agreement and any SOW. Additional support will be performed pursuant to any applicable SOW. DL does not support languages that use non-Latin characters. DL does not support practices or locations outside the US.

**7. DOMAIN NAME SERVERS (“DNS”) & CONTENT DELIVERY NETWORK (“CDN”).** As a part of the DL Software and in accordance with DL’s HIPAA security standards, each Customer agrees to point its primary domain name to DNS and CDN providers as determined solely by DL. As a part of DL’s Licensed Products, DL manages the DNS and CDN services for Customer’s business at no additional cost. With DL approval, each Customer may choose to create its own DNS and CDN accounts using only the DNS and CDN provider approved by DL to accomplish this security requirement. DL reserves the right to change DNS and CDN providers in its sole discretion.

**8. REPRESENTATIONS AND WARRANTIES.** Each party represents and warrants to the other that it is entitled and authorized to enter into the Agreement, and the person executing the Agreement is authorized to bind such party, including, with respect to Customer, on behalf of any Affiliates named in the Agreement. Each party, including, with respect to Customer, on behalf of any Affiliate named in the Agreement, represents, warrants and agrees that it will comply with all applicable federal, state and local law in the performance of the Agreement.

**9. PUBLICITY, NOTICES & PRIVACY POLICY.** DL shall have the right during the Term, without any further consent from Customer, to refer to Customer and any Affiliate (as applicable) in private or public as a customer of DL; however, DL agrees not to identify Customer, including any applicable Affiliates, in any press release without prior approval from Customer. All notices required or permitted by the Agreement served or given to either party must be in writing to the primary address of the Customer as listed in the Agreement or, if for DL, as listed at doctorlogic.com, and shall be deemed duly served (i) on the 7th day after the deposit in the U.S. mail, postage pre-paid, if sent by certified mail or (ii) upon delivery if sent by personal or overnight delivery. Each party shall comply with the provisions of the DL Privacy Policy (as may be modified by DL from time to time as determined by DL in its sole discretion), which can be found online at doctorlogic.com.

**10. USE RESTRICTIONS.** Customer shall not: (i) modify or translate the DL Software or its related source code, intellectual property, development methodologies or design features; (ii) reverse engineer, de-compile or disassemble the DL Software, any Licensed Product or any Web Page; (iii) export or use the DL Software data compilations, mark-up, source code, page designs, list pages, structures or algorithms with another product or with another website provider except as otherwise expressly permitted pursuant to the Agreement; (iv) remove or obscure any proprietary rights notices or labels on the Licensed Products; (v) charge a fee or royalty for distribution, transmission or use of the Licensed Products; or (vi) license, re-license, sub-license, resell or use any portion of the Licensed Products for any reason at any business entity, subsidiary, third party or other venture.

**11. PATIENT INFORMATION.** Both parties acknowledge and agree that Customer shall constitute a “Covered Entity” and DL shall constitute a “Business Associate” of Customer as such terms are defined in the privacy and security requirements of HIPAA. Moreover, during the Term, DL may have access to individually identifiable health information that is subject to HIPAA, and the parties shall enter into a Business Associate Agreement in the form of Business Associate Agreement made available online at doctorlogic.com/legal. With regard to Protected Health Information, both parties shall comply with all applicable federal, state and local privacy and security laws and regulations, specifically including HIPAA; provided, however, both parties acknowledge and agree that Customer is responsible for (i) the maintenance, control, transmission and disclosure of all Protected Health Information of Customer’s patients and (ii) obtaining the appropriate authorizations and documentation in compliance with, and as required by, applicable federal, state and local laws and regulations pertaining to the maintenance, transmission, uses and disclosures of Protected Health Information. Available online at doctorlogic.com/legal, for education purposes and not as legal advice, as a sample authorization form, is an Authorization for Use or Disclosure of Protected Health Information, which, if used by Customer, Customer is responsible for ensuring is (a) reviewed and modified by Customer’s legal counsel and (b) compliant with applicable federal, state and local law.

**12. DISCLAIMER OF WARRANTIES.** DL PROVIDES THE DL SOFTWARE, LICENSED PRODUCTS AND SUPPORT ON AN “AS-IS” AND “AS AVAILABLE” BASIS WITH ALL FAULTS AND WITHOUT WARRANTY OF ANY KIND. DL DISCLAIMS, TO THE FULL EXTENT PERMITTED BY APPLICABLE LAW, ALL IMPLIED WARRANTIES AND REPRESENTATIONS NOT OTHERWISE ADDRESSED IN THE AGREEMENT OR THESE T&C, INCLUDING ANY IMPLIED WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE AND MERCHANTABILITY.

**13. LIMITATION OF LIABILITY.** EXCEPT FOR BREACHES OF SECTION 9 (PUBLICITY, NOTICES & PRIVACY POLICY) AND SECTION 16 (CONFIDENTIALITY), EACH PARTY WILL NOT, UNDER ANY CIRCUMSTANCES, BE LIABLE TO THE OTHER PARTY FOR CONSEQUENTIAL, INCIDENTAL, INDIRECT, SPECIAL, PUNITIVE OR EXEMPLARY DAMAGES ARISING OUT OF OR RELATED TO THE TRANSACTIONS CONTEMPLATED UNDER THE AGREEMENT, INCLUDING LOST PROFITS, LOSS OF BUSINESS, DIMINUTION IN VALUE OR LOST BUSINESS OPPORTUNITY, EVEN IF A PARTY IS APPRISED OF THE LIKELIHOOD OF SUCH DAMAGES OCCURRING. IN NO EVENT OR CIRCUMSTANCE SHALL DL’S CUMULATIVE LIABILITY UNDER THE AGREEMENT EXCEED THE TOTAL AMOUNT PAID BY CUSTOMER UNDER THE AGREEMENT OR ANY SOW FOR THE SPECIFIC LICENSED PRODUCT(S) FOR THE 30-DAY PERIOD PRIOR TO THE DATE OF THE ALLEGED BREACH OR OTHER EVENT OR LOSS GIVING RISE TO A CLAIM BY CUSTOMER; PROVIDED THAT SUCH CUMULATIVE LIABILITY DOES NOT ARISE FROM GROSS NEGLIGENCE OR WILLFUL DEFAULT.

**14. MUTUAL INDEMNIFICATION.** Each of DL and Customer, on behalf of itself and each applicable Affiliate, hereby agrees to indemnify, defend and hold harmless the other party and each of their respective managers, directors, officers, employees, members, shareholders, partners, representatives, agents, successors and assigns from and against any and all losses, liabilities, damages, penalties and interest (including attorneys’ fees and expenses), judgments, lawsuits, administrative hearings, enforcement actions, investigations, proceedings, causes of action (whether brought by or on behalf of private or public individuals or entities or any governmental authority) and claims of any kind (collectively, “Claims”), relating to or arising from such party’s: (i) breach of any provision of the Agreement or these T&C; (ii) use or misuse of the DL Software or any Licensed Product; (iii) infringement or alleged infringement of a third-party’s intellectual property rights; or (iv) gross negligence or willful misconduct.

**15. CUSTOMER INDEMNIFICATION.** In addition to the Customer’s other indemnification obligations set forth herein, Customer, on behalf of itself and each applicable Affiliate, hereby agrees to indemnify, defend and hold harmless, with joint and several liability, DL and its managers, directors, officers, employees, members, shareholders, partners, representatives, agents, successors and assigns from



and against any and all Claims relating to or arising from (i) Customer Content, including, Customer's (or any applicable Affiliate's) acquisition, maintenance, transmission, disclosure or use thereof, (ii) Customer's unauthorized disclosures of Protected Health Information, (iii) DL's authorized use of Customer Content, (iv) loss of any Customer Content stored at the Datacenter, or (v) Customer's breach of HIPAA Requirements or any other federal, state or local privacy or security law or regulation, (vi) the failure of any Customer Website or part thereof to comply with accessibility requirements under the ADA and regulations and guidance promulgated thereunder, or (vii) Customer's gross negligence or willful misconduct.

**16. CONFIDENTIALITY.** Either party (the "*Disclosing Party*") may disclose to the other party (the "*Receiving Party*") certain information, whether technical or not, and regardless of form or media, that relates to the business of the Disclosing Party and that is (i) disclosed to, or known by, the Receiving Party as a consequence of or through the relationship defined by the Agreement; and (ii) the subject of efforts by the Disclosing Party to maintain in confidence, or is otherwise not generally known outside the Disclosing Party (collectively, the "*Confidential Information*"). The Receiving Party agrees to use Confidential Information solely in conjunction with its performance under the Agreement. The Receiving Party acknowledges and agrees that the Disclosing Party will be entitled, as a matter of right, to injunctive relief, both temporary and permanent, against any misappropriation of any of the Confidential Information by the Receiving Party, or a third party within the Receiving Party's control, without the necessity of posting bond or security or proving actual damages. The Receiving Party, however, will not be required to keep confidential any information that (a) becomes available without fault on the Receiving Party's part, (b) is already rightfully in the Receiving Party's possession without restriction prior to its receipt from the Disclosing Party, (c) is independently developed by the Receiving Party, (d) is rightfully obtained by the Receiving Party from 3rd parties, or (e) is otherwise required to be disclosed by law or process.

**17. FORCE MAJEURE.** If fulfillment of any obligation under the Agreement is prevented, restricted or interfered with by causes beyond either party's reasonable control ("*Force Majeure*"), and if the party unable to carry out its obligations gives the other party prompt written notice of such event, then the obligations of the party invoking this provision shall be suspended to the extent necessary by such event. Force Majeure shall include acts of God, explosion, terrorism, vandalism, storm, orders or acts of military or civil authority, national emergencies, insurrections, riots, wars, cyber-attacks, third-party bankruptcies or insolvencies, third-party software failure, contractor difficulties, supply chain failures, labor difficulties and problems with third party providers (including hosting providers and internet providers).

## **18. MISCELLANEOUS.**

(a) **ENTIRE AGREEMENT.** This Agreement, together with these T&C and any SOWs, exhibits, schedules or other items attached to the Agreement constitutes the entire agreement of the parties and supersedes any prior understandings of written or oral agreements between the parties respecting this subject matter. No amendment or alteration of the terms and conditions of the Agreement shall be binding unless the same is in writing and duly executed by the parties.

(b) **ASSIGNMENT; SUCCESSOR AND ASSIGNS.** Neither the Agreement, in whole or in part, nor any of the rights, interests or obligations under the Agreement shall be assigned by Customer or any Affiliate without the prior written consent of DL. DL may assign the Agreement, in whole or in part, and any of its rights, interests or obligations under the Agreement, at any time without the consent of any Customer or any Affiliate, including in connection with a sale of all or substantially all of its assets or a change in control of greater than 50% of the ownership or voting power of DL ("*Change of Control*"). The provisions of the Agreement are binding upon and inure to the benefit of both parties and their respective representatives, successors and permitted assigns.

(c) **SURVIVAL.** The following provisions of these T&C shall survive any termination of the Agreement: Sections 1 (Scope); 2 (SetUp Fees and Monthly Fees); and 8 (Representations and Warranties) through 18 (Miscellaneous).

(d) **NO THIRD-PARTY BENEFICIARIES.** This Agreement shall not confer any rights or remedies upon anyone other than the parties and their respective successors and permitted transferees or assigns.

(e) **REMEDIES.** All remedies set forth in the Agreement will be cumulative and in addition to and not in lieu of any other remedies available to either party at law, in equity or otherwise, and may be enforced concurrently or from time to time.

(f) **WAIVER.** Any failure by a party to require strict performance by the other party or any waiver by a party of any breach of any provision of the Agreement shall not constitute a continuing waiver or a waiver of any subsequent breach of the same or a different provision.

(g) **SEVERABILITY.** In case any one or more of the provisions contained in the Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, shall not affect any other provision, and the Agreement will be construed as if the invalid, illegal or unenforceable provision had never been contained in the Agreement.

(h) **RELATIONSHIP OF THE PARTIES.** The relationship between the parties is that of independent contractors. Nothing contained in this Agreement will be construed as creating any agency, partnership, joint venture, or other form of joint enterprise, employment or fiduciary relationship between the parties, and neither party shall have authority to contract for or bind the other Party in any manner whatsoever.

(i) **GOVERNING LAW; JURISDICTION AND VENUE; ATTORNEYS' FEES.** This Agreement shall be governed by, and construed in accordance with, the laws of the State of Texas applicable to contracts executed and performed in that state and without regard to any applicable conflicts of law. IN ANY ACTION BETWEEN THE PARTIES ARISING OUT OF OR RELATING TO THIS AGREEMENT, EACH OF THE PARTIES IRREVOCABLY AND UNCONDITIONALLY CONSENTS AND SUBMITS TO THE EXCLUSIVE JURISDICTION AND VENUE OF EITHER THE STATE OR FEDERAL COURTS LOCATED OR HAVING JURISDICTION IN COLLIN COUNTY, TEXAS. The prevailing party will be entitled to receive from the other party its attorneys' fees and costs incurred in connection with any litigation instituted in connection with the Agreement.

(j) **INTERPRETATION.** The following rules of interpretation apply to the Agreement, including these T&C: (i) the language shall be interpreted as to its fair meaning and not strictly for or against any party; (ii) except as otherwise indicated, all references to "party" or "parties" are intended to refer to Customer or DL, as applicable; (iii) all references to a Part are intended to refer to a Part of the Agreement, and all references to a Section alone are intended to refer to a Section of the Agreement or these T&C, as the context may reasonably require; (iv) the words "herein," "hereof," "hereunder," and other words of similar import refer to the Agreement as a whole and not to any particular provision; (v) the words "include" and "including," and variations thereof, shall not be deemed to be terms of limitation, but rather shall be deemed to be followed by the words "without limitation" if such words or the equivalent thereof are not present; (vi) the term "or" has, except where otherwise indicated, the inclusive meaning represented by the phrase "or;" (vii) whenever the context requires, the singular number shall include the plural, and vice versa, the masculine gender shall include the feminine and neuter genders, the feminine gender shall include the masculine and neuter genders, and the neuter gender shall include the masculine and feminine genders; (viii) captions and headings are only for reference; and (ix) unless the context requires otherwise, all references to "years," "months" or "days" shall mean "calendar years," "calendar months" and "calendar days," respectively.

(k) **SIGNATURE.** This Agreement may be executed in two or more counterparts each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Each party agrees that its electronic signature included in the Agreement is intended to authenticate this writing and to have the same force and effect as an original or manual signature. Electronic signature means any electronic sound, symbol, or process attached to or logically associated with a record, which is capable of retention, and executed or adopted by a party with the intent to sign such record, whether digital or encrypted, including manual signature by facsimile device or by electronic transmission in "portable document format" (.pdf).

## 19. DEFINITIONS.

(a) **ADDITIONAL DEFINED TERMS.** The following capitalized terms used in these T&C shall have the meanings indicated below. "ADA" means the U.S. Americans with Disabilities Act of 1990, as amended.

"*Affiliates*" means, with respect to a specific entity, an entity that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, the specified entity.

"*Business Associate Agreement*" means an agreement that addresses the HIPAA Requirements with respect to Business Associates.

"*Chat Leads*" means any communication with a customer pursuant to a Chat.

"*Design*" means the UI/UX Layout, markup, content management system, Web Page classes, and all other components and features of a Web Page, other than Content, based upon or generated by the DL Software.

"*DL Privacy Policy*" means the DL policy set forth at DL's website (<https://doctorlogic.com/privacy/>) as may be amended from time to time.

"*DL Software*" means the Software owned, developed, created or adapted for the Licensed Products, including object code, source code, services, designs, coding, methodology, data abstraction layer, business logic, cascading style sheets, data driven content, Admin Tools, hosting, processes, implementations, development, modifications, enhancements and concepts and shall include any customizations created for or on behalf of Customer pursuant to the Agreement.

"*HIPAA*" means Health Insurance Portability and Accountability Act of 1996, Public Law 104-191.

“*HIPAA Requirements*” means HIPAA, the HITECH Act, and certain privacy and security regulations promulgated by the U.S. Department of Health and Human Services to implement certain provisions of HIPAA and the HITECH Act, as modified by the Final Omnibus Rule effective as of March 26, 2013 found at 45 C.F.R. Parts 160, 162 and 164.

“*HITECH Act*” means the Health Information Technology for Economic and Clinical Health Act.

“*Interlinking*” means is the process of linking relevant portions of Content, including data driven content, between Web Pages in the sole discretion of DL for the purpose of creating indexable and consumer-friendly Content and lists of Content that can be accessed by search engines and consumers, including those in compliance with *Google Best Practices*.

“*Launch Date*” means the mutually agreed date on which the Website is scheduled to be published “live” to the domain name and accessible on the internet by third parties.

“*New Version*” means any new version or new module of DL Software that DL may from time to time introduce and market generally as or part of a distinct Licensed Product (as may be indicated by DL’s designation of a new version number or new module name or number), and which DL may make available to Customer at an additional cost under a SOW or separate written agreement.

“*Other Fees*” means any other fees charged by DL to Customer pursuant to the Agreement.

“*Protected Health Information*” means the information described as protected pursuant to 45 CFR 164.502, HIPAA Privacy Rule, as may be amended from time to time.

“*SEO*” means Search Engine Optimization, the process of affecting the online visibility of a website or a web page in a web search engine's unpaid results.

“*Software*” means computer programs, applications and code, including any and all such code for websites, software implementations of algorithms, models and methodologies, program files, program and system logic, program modules, routines and subroutines, whether in source code, object code or other form.

“*Transferable Web Pages*” means a customized Home Page and customized Contact Us Page created pursuant to the Agreement.

“*UI/UX Layout*” means the combination of user experience and user layout for the Website.

“*Updates*” means any update, upgrade, release or other adaptation or modification of the DL Software, which may contain, among other things, error corrections, enhancements, improvements, or other changes to the user interface, functionality, compatibility, capabilities, performance, efficiency or quality of the DL Software, but does not include any New Version.

**(b) INDEX OF DEFINED TERMS.** The following is an alphabetized index of all terms defined in these T&C that are not listed in Section 19 (a), and the Section of these T&C in which they are each defined.

Admin Tools - 3, Analytics - 4, Billable Lead - 4, Business Associate - 11, CDN - 7, Change of Control - 18, Chat - 4, Claims - 14, Confidential Information - 16, Content - 4, Covered Entity - 11, Datacenter - 6, Disclosing Party - 16, DNS - 7, Equipment - 6, Force Majeure - 17, Gallery - 4, Leads - 4, Packages - 3, PPC - 4, Receiving Party - 16, Reputation - 4, Reviews - 4, Search - 4, Social - 4, Stock Images - 4, Success - 4, Videos - 4 and Website - 4.