

Last Updated: August 26, 2024

This Online Service Agreement (together with all Exhibits, Order Forms and incorporated URL terms, collectively, this "Agreement") is legally binding on the parties and shall govern your ("you" or "Client") access and use of Validic, Inc.'s ("us" or "Validic"), Service (as defined below).

**BY ACCEPTING THIS AGREEMENT, EITHER BY CLICKING A BOX INDICATING YOUR ACCEPTANCE OR BY EXECUTING AN ORDER FORM THAT INCORPORATES BY REFERENCE THIS AGREEMENT, YOU AGREE AND CONSENT TO BE BOUND BY THE TERMS OF THIS AGREEMENT. IF YOU ARE ENTERING INTO THIS AGREEMENT ON BEHALF OF A COMPANY OR OTHER LEGAL ENTITY, YOU REPRESENT THAT YOU HAVE THE AUTHORITY TO BIND SUCH ENTITY AND ITS AFFILIATES TO THIS AGREEMENT, IN WHICH CASE THE TERMS "CLIENT", "YOU" or "YOUR" SHALL REFER TO SUCH ENTITY AND ITS AFFILIATES. IF YOU DO NOT HAVE SUCH AUTHORITY, OR IF YOU DO NOT AGREE WITH THE TERMS OF THIS AGREEMENT, YOU MUST NOT ACCEPT THIS AGREEMENT AND MAY NOT USE THE SERVICE.**

The parties agree as follows:

## **1. THE SERVICE**

**1.1. Service Description.** Validic provides a digital health platform that (i) accesses, collects, and standardizes user-authorized personal health and activity information ("Authorized Data"). Authorized Data is collected using third-party applications and devices ("Apps") which may store information on the respective App owners' servers; and (ii) coordinates and manages permissions and credentialing between the Apps and Validic's clients. The digital health platform is comprised of a set standard features and services (the "Software Service"), as well as additional supplementary features and services which may include program management, device logistics, service desk services, and implementation support services (each, an "Add-On Service" and, together with the Software Service, the "Service") that Client can order pursuant to one or more order forms submitted by Client and accepted by Validic (each, an "Order Form").

**1.2. Add-On Services.** Client may request the following services in an Order Form.

**Device Logistics Service Description.** Validic provides logistic services and device management including program management, inventory management, warehousing, kitting devices, shipping kits to a home or facility, device rentals, cleaning devices on return, reporting, and device recall services. Optional services dependent on program requirements could include tablet services including mobile device management and cellular services, as well as removal services to recover devices. An “End User” is any person who receives, uses, or is intended to receive or use a device provided by Validic under this Agreement, whether or not they are a Connected User via the Software Service. Additional Equipment Terms are attached hereto as Exhibit B.

**Service Desk.** Validic provides call center services that may include customer service, technical and administrative support, outbound welcome calls, and phone support for End Users, Connected Users, and clinicians. Service Desk services will be described in one or more SOWs, if applicable. Additional Service Desk terms are attached hereto as Exhibit C.

**1.3.** Client desires to obtain access and use of the Service in order to provide its Customers and their connected end users (the "Connected Users") with access to the Authorized Data. A "Connected User" is a member with (i) one or more connected devices that have been registered on Validic's Service or (ii) who has sent data via the Mobile SDK in the past thirty (30) days regardless of the number of devices.

**1.4. License.** Subject to the terms and conditions of this Agreement (including, without limitation, the limitations and restrictions described herein), Validic hereby grants to Client, and Client accepts, a non-exclusive, non transferable, and non-assignable (except as set forth in **Section 13.3**), right to access and use Validic's application programming interface (the "API") (the documentation for which is available at <https://helpdocs.validic.com/> to enable Client's Customers and Connected Users to use the Service. Use of the Service includes the ability to (i) manage permissions and credentialing between the Client systems and the Apps and (ii) transfer the Authorized Data to the Client systems. Client acknowledges and agrees that use of the Service requires Client to format its data and system so that it can connect to the API and successfully exchange Client data.

**1.5. Client Responsibilities.** Client shall: (i) ensure that each Client Customer uses the Service solely to obtain Authorized Data of its Connected Users for use in the Client system and solely for use in a manner that is in compliance with the Permitted Uses (as defined in **Section 4.1** below); (ii) take appropriate action to ensure that non-Connected Users do not access or use the Service; and

(iii) access and use the Service solely in compliance with all applicable local, state, federal, and foreign laws, rules, directives, and regulations (including, without limitation, those relating to data protection and privacy).

Client shall obtain all consents, rights, licenses, releases, clearances, registries, representations, warranties, and authorizations to provide the Software Services and Equipment to End Users and/or Connected Users.

Client is responsible for any medical advice or care any End User receives from Client, if any, and Services and Equipment are not intended as a substitute for medical care.

Client will facilitate Validic's reasonable access to End User premises for the purposes of delivering, installing, and recovering Equipment, as well as for facilitating the provision of Services. Client will be responsible for any expenses related to relocating Equipment for an End User following delivery to the location specified in the Device Order Form, including due to a change of address of such End User. Where applicable, the Client consents to Validic communicating with End Users directly to manage the delivery, installation, and support of Equipment and Services.

Client acknowledges and agrees that, if applicable, it will format its data and system to connect to and successfully exchange Client data with Validic. Client access to the Software Service will require Client internet access, and Client is responsible for managing credentials for its Authorized Users.

**1.6. Limitations and Restrictions.** Client agrees that it shall not, and shall not permit any third party to, directly or indirectly: (i) modify, alter, revise, decompile, disassemble, reverse engineer, create derivative works or attempt to derive the source code of the Service; (ii) lease, rent, sublicense, distribute or otherwise make available the Service, in whole or in part, to any third party other than Client Customers and their Connected Users; (iii) use the Service in a way not intended by Validic or for any unlawful purpose; (iv) attempt to tamper with, alter, disable, hinder, bypass, override, or circumvent any security, reliability, integrity, restriction or requirement of the Service; (v) remove, obscure or alter any copyright, trademark, patent or proprietary notice affixed or displayed by or in the Service; (vi) interfere with or disrupt the integrity or performance of the Service or the data contained therein; and (vii) access the Service in order to build a competitive product or service, copy any features, functions or graphics of the Service or monitor the availability and/or functionality of the Service for any benchmarking or competitive purposes.

**Supported Apps.** Client acknowledges and agrees that Service currently supports and is able to collect Authorized Data from the Apps set forth at <https://validic.com/inform-connected-apps-and-devices>. All Apps are owned and maintained by third parties and

Validic is not responsible for the Apps, including, without limitation, the malfunction or other failure of any App.

Validic may add additional Apps during the term of the Agreement. Validic shall not discontinue supporting any App during the Term of this Agreement unless Validic determines, in its sole discretion, that it is not commercially reasonable to continue to support any particular App, or the owner of any App terminates Validic's right to obtain Authorized Data from that App.

Validic shall provide Client with notice (via email is sufficient) as soon as is commercially practicable of any such discontinuance of support for any App

**1.7. Attribution.** Client acknowledges and agrees that owners of Apps may require data attribution such that when data generated using their respective App is displayed to a Connected User or Client Customer, such App owner, the name of the App, and/or certain other information relating thereto be displayed.

**1.8. Professional Services.** Professional services, including implementation and technical support services, may be provided at Client request. Any fees associated with Professional Services shall be outlined in an Order Form.

## **2. SERVICE UPDATES; CREDENTIALING.**

**2.1. Service Updates.** During the Term of this Agreement, Validic may make commercially reasonable updates, upgrades, improvements, enhancements, and/or modifications to its Service and its API.

**2.2. Credentialing.** Validic shall have no obligation to provide the Service to any Client Customer unless (i) Client's connection to the API is functional in all material respects; (ii) with respect to a Client Customer, Client fully complies with Validic's then-current credentialing process.

## **3. PROPRIETARY RIGHTS.**

Client acknowledges and agrees that (as between Client and Validic) Validic retains all ownership right, title, and interest in and to the Service and API, including without limitation all corrections, enhancements, improvements to, or derivative works thereof (collectively, "Derivative Works"), and in all intellectual property and proprietary rights therein or thereto ("Intellectual Property Rights"). To the extent any Derivative Work is developed by Validic based upon ideas or suggestions submitted by Client to Validic, Client hereby irrevocably

assigns all rights to modify or enhance the Service and/or API using such ideas or suggestions or joint contributions to Validic, together with all Intellectual Property Rights related to such Derivative Works without attribution to Client. Nothing contained in this Agreement shall be construed to convey to Client (or to any party claiming through Client) any Intellectual Property Rights in or to the Service or API other than the rights expressly set forth in this Agreement.

#### **4. DATA.**

**4.1. Permitted Uses.** Client shall be solely responsible for ensuring that each Connected User (i) designates the Apps from which that Connected User's Authorized Data is to be collected, (ii) authorizes each such App to allow Validic to collect such Authorized Data for use with the Service and the Client system, (iii) consents to the collection, use and storage of such Authorized Data by Validic in accordance with the provisions of this Agreement and its Privacy Policy (as defined below in Section 13.9) and (iv) agrees to the permitted uses and disclosures by Client of that Connected User's Authorized Data ("Permitted Uses"). Client shall (and ensure that its Customers shall) not use or disclose any Connected User's Authorized Data for any purpose other than the Permitted Uses without the express prior written consent of the Connected User.

**4.2. HIPAA.** Validic and Client shall comply with any applicable obligations under any applicable laws, rules, and regulations including, without limitation the Health Insurance Portability Act of 1996 ("HIPAA"), with respect to its processing, use, storage, and disclosure of Authorized Data.

**4.3. Ownership and Responsibilities.** Client acknowledges that (i) Authorized Data is owned by Connected Users and is not owned or controlled by Validic and (ii) as between Validic and Client, Client shall be solely responsible for all use, storage, and disclosure of Authorized Data received by it.

#### **5. THIRD-PARTY DATA SOURCE TERMS**

**5.1. Acknowledgment of Third-Party Terms.** The Client acknowledges and agrees that Apps accessed through Validic's Service are governed by their respective terms and conditions ("Third-Party Terms") for data provision. The Client understands that such Third-Party Terms are necessary for providing Authorized Data to Validic and its subsequent accessibility by the Client.

5.2. **Review and Approval Obligation.** The Client shall review the Third-Party Terms provided at [Insert Hyperlink]. Continued use of Validic's services constitutes the Client's acceptance of these Third-Party Terms. To streamline the implementation of the Service, the Client grants Validic a limited power of attorney, conferring the specific and exclusive authority to Validic to accept the Third-Party Terms on the Client's behalf. This authority is conferred solely for actions necessary to enable the Service and is bounded by the explicit scope of the Third-Party Terms acceptance procedures. The Client affirms that this limited power of attorney is granted solely for the purposes detailed herein and is not to be applied for any other matter or extended beyond the necessary actions to implement the Service as stipulated by these Third-Party Terms.

5.3. **Non-Acceptance of Terms.** Third-Party Terms are typically not negotiable. If the Client does not accept any Third-Party Terms, the Client must promptly notify Validic in writing. Following such notification, the Client acknowledges that it will be precluded from accessing, and Validic will not provide, the data from the respective App.

## **6. PAYMENTS.**

**6.1. Fees.** Client shall pay to Validic the fees for the Service set forth on each Order Form. All fees shall be paid in U.S. dollars in immediately available funds and shall be made payable to Validic. Except as otherwise specified herein or in an Order Form, (i) fees are based on the level of Service purchased (e.g., number of permitted Connected Users and included deployments) and not actual usage, (ii) payment obligations are noncancelable and fees paid are non-refundable and (iii) quantities purchased pursuant to an applicable Order Form can only be decreased at the commencement of an applicable Renewal License Term for such Order Form.

**6.2. Invoicing and Payment.** Unless otherwise stated in the Order Form, Client shall provide valid and correct credit card information and/or valid and correct ACH auto debit account information (in each case, the "Automated Payment Method"). Throughout the Term, Client shall maintain and update, if necessary, its Automated Payment Method information to ensure that Validic can process required payments using the Automated Payment Method. Client is responsible for providing complete and accurate billing and contact information to Validic and notifying Validic of any changes to such information.

If Client provides Automated Payment Method information to Validic, Client authorizes Validic to charge such Automated Payment Method for the Service identified in the applicable Order Form (including, without limitation, the Software Service and/or any Add-On Services purchased) for the License Term (as defined in Section **12.2**) for such Order

Form. Such charges shall be made in advance, either annually or in accordance with any different billing frequency stated in the applicable Order Form.

If the Order Form specifies that payment will be by a method other than the Automated Payment Method, Validic will invoice Client in advance and otherwise in accordance with the relevant Order Form. Unless otherwise stated in the Order Form, invoiced charges are due net thirty (30) days from the invoice date. Client agrees that it bears the responsibility for ensuring timely payment of all invoices, regardless of the status of internal purchase order processes. Any failure by Client's internal operations to timely execute purchase orders will not modify, extend, or delay Client's obligations to make payments as stipulated in the invoice terms.

**6.3. Overdue Charges.** If any invoiced amount is not received by Validic by the due date, then without limiting Validic's other rights or remedies, (i) those charges may accrue late interest at the rate of 1.5% of the outstanding balance per month or the maximum rate permitted by law, whichever is less, and/or (ii) Validic may condition future subscription renewals and Order Forms on payment terms shorter than those specified in Section 6.2. Client shall reimburse Validic for all reasonable costs incurred by Validic in collecting any late payments or interest, including reasonable attorneys' fees.

**6.4. Acceleration.** If any amount owing by Client under any Order Form is thirty (30) or more days overdue (or ten (10) or more days overdue in the case of amounts Client has authorized Validic to charge Client's Automated Payment Method), Validic may, without limiting its other rights and remedies, accelerate Client's unpaid fee obligations under such Order Forms so that all such obligations become immediately due and payable. If Client is not required to make payments hereunder via an Automated Payment Method, Validic will give Client at least ten (10) days' prior notice that its account is overdue to enable Client to cure such payment default before exercising its rights under this **Section 6.4.**

**6.5. Payment Disputes.** Validic will not exercise its rights under Section 6.3 or 6.4 if Client is disputing the applicable charges reasonably and in good faith and is cooperating diligently to resolve the dispute. However, disputes to fees must be brought before the invoice or fees become due or they will be deemed as accepted. In the event of a default in the payment of an invoice, Client will be responsible for all of Validic's collection costs, including, but not limited to, court costs, filing fees, and reasonable attorneys' fees.

**6.6. Taxes and Additional Payments.** In addition to all other fees payable under this Agreement, Client shall pay all taxes (other than taxes based on income), duties, import and export fees, and any other charges or assessments established by any government agency which are applicable to performance under this Agreement. Client agrees to

indemnify and hold Validic harmless from any encumbrance, fine, penalty, or other expense, which Validic may incur as a result of Client's failure to pay such taxes, duties, and fees as required hereunder.

**6.7. Future Functionality.** Client agrees that its purchases are not contingent on the delivery of any future functionality or features, or dependent on any oral or written public comments made by Validic regarding future functionality or features.

## **7. CONFIDENTIALITY.**

**7.1. Confidential Information Defined.** Each party (the "Receiving Party") understands that the other party (the "Disclosing Party") may disclose Confidential Information in connection with this Agreement. "Confidential Information" means all information disclosed by the Disclosing Party to the Receiving Party: (i) that is marked or designated "confidential" or "proprietary," or (ii) that reasonably appears to be proprietary or confidential because of legends or other markings, the circumstances of disclosure or the nature of the information itself. "Confidential Information" also includes, without limitation, any information described above which either party obtains from a third party and which such party treats as proprietary or confidential information. Validic's Confidential Information shall include, without limitation, the terms and conditions of each Order Form.

**7.2. Protection of Confidential Information.** The Receiving Party shall use Confidential Information solely in connection with the performance of this Agreement. The Receiving Party shall protect Confidential Information (whether disclosed before or after the Effective Date) from unauthorized use, dissemination or publication by using the same degree of care, but not less than a reasonable degree of care, as the Receiving Party uses to protect its own confidential or proprietary information of a similar nature. The Receiving Party will limit the use of and access to the Disclosing Party's Confidential Information to the Receiving Party's employees or independent contractors who have a demonstrable need to know, who have been notified that such information is Confidential Information and who are under binding obligations of confidentiality no less restrictive than those of this Agreement. The Receiving Party agrees not to reverse engineer, disassemble or decompile any prototypes, software or other tangible objects that embody the Disclosing Party's Confidential Information. Furthermore, the Receiving Party agrees not to copy any of the Disclosing Party's Confidential Information unless and until the Disclosing Party approves in writing such copying, except as reasonably required to evaluate and/or conduct the parties' transaction(s). The Receiving Party agrees to reproduce the Disclosing Party's



proprietary rights notices on any such authorized copies, in the same manner in which such notices were set forth in or on the original.

**7.3. Length of Confidentiality Obligation.** The Receiving Party's obligation to protect an item of Confidential Information under this Agreement will expire when an exception set forth in **Section 7.4** applies to such item of information. Upon written request of the Disclosing Party, any and all written or electronic materials (and all copies, extracts, and summaries thereof) in the Receiving Party's possession or control will be either promptly returned to the Disclosing Party, or promptly destroyed by the Receiving Party (with a certification of destruction transmitted to the Disclosing Party) at the Receiving Party's expense.

**7.4. Exceptions to Non-Disclosure Obligations.** The restrictions of non disclosure set forth in this **Section 7** will not apply to any Confidential Information: (a) after it is or becomes generally available to the public through no fault of the Receiving Party or its employees, independent contractors, consultants, agents or subcontractors; (b) that is rightfully in the Receiving Party's possession before disclosure to the Receiving Party by the Disclosing Party, as evidenced by the Receiving Party's records; (c) is independently developed by the Receiving Party without the use of the Disclosing Party's Confidential Information; (d) was disclosed to the Receiving Party by a third party that had the unrestricted right to disclose such information; or (e) is lawfully received by the Receiving Party in good faith from a third party not subject to an obligation of confidentiality.

**7.5. Required Disclosures.** In addition, the Receiving Party may disclose Confidential Information if required to do so by statute, administrative process or court order, provided that (i) the Receiving Party gives the Disclosing Party sufficient advance notice of such disclosure requirement (to the extent legally permitted), (ii) the Receiving Party cooperates with the Disclosing Party in trying to seek a protective order in connection therewith, and (iii) the scope of such disclosure is limited to the extent possible.

## **8. WARRANTIES.**

**8.1. Software Warranties.** Validic warrants to Client that, during the Term of this Agreement, it shall make the Service available to Client in the manner provided by this Agreement and in compliance with the service level agreement set forth in **Exhibit A**. As Client's sole and exclusive remedy for any breach of the foregoing warranty, Validic shall issue service credits to Client as provided in **Exhibit A**. Validic warrants to Client that it shall maintain industry standard virus protection procedures to attempt to ensure that the Authorized Data provided to Client will be free of viruses, worms, contaminants, and other

malicious code that was designed to threaten, infect, damage, disable, or shut down or harm Client's systems.

**8.2. Logistics Warranties.** Validic represents and warrants that it or its agent (i) is competent, experienced, and trained to provide all Logistics Services herein, and (ii) it will use commercially reasonable efforts to provide Equipment in a timely manner in accordance with the applicable SOW and, where this Agreement does not prescribe or regulate Validic's provision of the deliverables, in accordance with industry standards. If Client notifies Validic of a breach of this warranty, Validic will correct and redeliver the affected Logistic Service at no additional charge to Client within a reasonable period. Client shall not provide any warranties to an End User or any third party with respect to Services that are inconsistent with the warranties provided by Validic to Client in this Agreement or that expand such warranties.

**8.3. Client Warranties.** Client warrants to Validic that it is solely responsible for any medical advice or care End Users receive from Client, if any, and Equipment is not intended as a substitute for medical care. Client further warrants to Validic that (i) it will ensure that Validic and its Affiliates have reasonable access to all End User locations for delivery and recovery of Equipment; (ii) Validic or its Affiliates may communicate with End Users for the purpose of delivering and installing Equipment and delivering Services, and as otherwise necessary to support the Equipment or Services in accordance with this Agreement; and (iii) except as may be enumerated in an SOW, Validic is not responsible for any expenses related to relocating Equipment for an End User following delivery to the location specified in the Device Order Form, including due to a change of address of such End User.

## **9. DISCLAIMER OF WARRANTY.**

EXCEPT AS EXPRESSLY SET FORTH IN **SECTION 8** OF THIS AGREEMENT, VALIDIC MAKES NO REPRESENTATIONS OR WARRANTIES REGARDING THE SERVICE, THE API, THE AUTHORIZED DATA OR ANY OTHER PRODUCT OR SERVICE PROVIDED HEREUNDER, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY, NONINFRINGEMENT AND FITNESS FOR A PARTICULAR PURPOSE. VALIDIC DOES NOT MAKE ANY WARRANTY THAT THE USE OF THE SERVICE OR THE API WILL BE UNINTERRUPTED OR ERROR-FREE OR THAT IT WILL PROVIDE ANY BACKUP FUNCTIONALITY FOR AUTHORIZED DATA, NOR DOES VALIDIC MAKE ANY WARRANTY WITH RESPECT TO THE ACCURACY OR PERFORMANCE OF THE APPS OR THE ACCURACY OF ANY AUTHORIZED DATA OBTAINED FROM THE APPS OR THAT AUTHORIZED DATA CAN BE USED TO MAKE ANY CONCLUSIONS REGARDING THE HEALTH STATUS OF ANY END USER. NO ORAL INFORMATION OR STATEMENT MADE BY ANY PARTY OR ITS REPRESENTATIVES WILL CREATE ANY SUCH WARRANTY.

## 10. LIMITATION OF LIABILITY.

IN NO EVENT SHALL VALIDIC BE LIABLE FOR:

(A) ANY SPECIAL, INDIRECT, CONSEQUENTIAL, OR INCIDENTAL DAMAGES (INCLUDING DAMAGES FOR LOSS OF PROFITS, BUSINESS INTERRUPTION, LOSS OF INFORMATION AND THE LIKE) ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, EVEN IF VALIDIC HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES; OR (B) ANY DIRECT DAMAGES OR OTHER AMOUNT IN EXCESS OF THE CUMULATIVE FEES ACTUALLY RECEIVED BY VALIDIC UNDER THIS AGREEMENT DURING THE 12 MONTH PERIOD IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO SUCH LIABILITY.

## 11. INDEMNIFICATION

**11.1. Validic Indemnity.** Validic shall defend, indemnify and hold harmless Client from any loss, damage or expense (including reasonable attorneys' fees) awarded by a court of competent jurisdiction, or paid in accordance with a settlement agreement signed by Client, in connection with any third party (including any Client Customer, Connected User or governmental claim) claim (each, a "Claim") alleging that: (i) Validic failed to comply with its obligations under HIPAA in its collection, processing and storage of Authorized Data, except to the extent such claim arises out of or relates to (x) the use of the Service by Client, Client Customers and/or Connected Users in a manner not authorized in this Agreement, or (y) the failure by Client to comply with its obligations with respect to data under **Section 4** of this Agreement; and (ii) Client's use of the Service as permitted hereunder infringes upon any United States patent, copyright or trademark of such third party, or misappropriates the trade secret of such third party (each, an "Infringement Claim").

Notwithstanding the foregoing, Validic shall have no liability or obligation with respect to any Infringement Claim that is based upon or arises out of (1) the use of the Service in combination with any software or hardware not expressly authorized by Validic, (2) any modifications or configurations made to the Service by Client, Client Customers and/or Connected Users without the prior written consent of Validic, and/or (3) any action taken by Client, Client Customers and/or Connected Users relating to use of the Service that is not expressly permitted or authorized under the terms of this Agreement.

In addition to the foregoing, if the Service becomes or is in Validic's reasonable discretion likely to become the subject of any injunction preventing its use in the manner

contemplated in this Agreement, or that Validic reasonably determines that the Service is likely to infringe or violate any third party intellectual property rights or that the use of the Service is likely to violate HIPAA, Validic may, at its option, **(A)** procure for Client the right to continue to use the Service in the manner permitted hereunder, without the payment of any additional fees by Client to any such third party; **(B)** replace or modify the Service so that it is compliant with **HIPAA** and/or non-infringing while continuing to perform all its material functions or **(C)** if, in Validic's reasonable opinion, it is not commercially reasonable for Validic to take the actions set forth in **(A)** or **(B)**, terminate this Agreement and release Client from any further payment obligations. **Section 11.1 and Section 11.2** state Validic's sole liability and Client's exclusive remedy for third-party claims with respect to the Service or the Authorized Data.

Validic's obligation to indemnify, hold harmless, and defend will not apply (i) to the extent the violation is caused by Client or Client Indemnitee or any third party's unauthorized modification or use of the Equipment not in accordance with the terms of this Agreement; and (ii) to devices or combinations of devices provided by Client or Client Indemnitee and used with the Equipment or Services where such devices or combinations gave rise to the claim. If Client's or any End User's right to use any of the Equipment is enjoined, Validic will, at its option, (a) procure for Client and End User, as applicable, the right to use the Equipment, (b) replace the Equipment with a functionally equivalent, non-infringing product, or (c) modify the Equipment to make it non-infringing and functionally equivalent. If (a), (b), and (c) are not commercially reasonable, Validic will refund all fees paid by Client in exchange for return of the affected Equipment.

**11.2. OEM Indemnity.** Validic does not manufacture or control any of the Equipment offered herein. The availability of Equipment under any SOW herein does not indicate an affiliation with or endorsement of any product, service, or manufacturer by Validic. Accordingly, Validic does not provide any warranties with respect to the products offered herein, however such Equipment may be covered by the manufacturer's warranty. Validic shall pass through to Client any and all indemnification provisions available to Client as provided by the applicable OEM.

**11.3. Client Indemnity.** Client shall indemnify, defend and hold Validic harmless from and against any and all loss or damage arising out of a third party claim against Validic (including any Client Customer, Connected User or governmental claim) resulting from Client's (i) use of the Service by Client, Client Customers and/or Connected Users, or (ii) the failure by Client or Client Customers to comply with the obligations with respect to data under **Section 4** of this Agreement, except to the extent such claim arises out of or relates to (a) Validic's gross negligence or intentional misconduct or (b) Validic's failure to

comply with its obligations under HIPAA in its collection, processing and storage of Authorized Data.

**11.4. Indemnification Procedures.** Each party's obligation of indemnification is contingent upon the other party promptly notifying in writing the indemnifying party of any such claim, providing the indemnifying party with exclusive control of the defense and/or settlement thereof, and cooperating with the indemnifying party in such defense and/or settlement. The indemnified party shall have the right to employ separate counsel and to participate in (but not control) any such action, but the fees and expenses of such counsel shall be at the expense of the indemnified party.

## **12. TERM AND TERMINATION.**

**12.1. Term.** Unless otherwise terminated in accordance with the terms of this Agreement, this Agreement commences on the Effective Date and continues until all subscriptions hereunder have expired or have been terminated (the "Term").

**12.2. Term of Purchased Licenses.** The initial term of the licenses purchased pursuant to an Order Form (the "Initial License Term") shall be as specified in the applicable Order Form. Except as otherwise specified in an Order Form, Service licenses shall automatically renew for additional, successive license renewal terms (each, a "Renewal License Term" and, together with Initial License Term, the "License Term") equal to the expiring license term or one year (whichever is shorter), unless either party gives the other party notice of non-renewal at least 30 days before the end of the relevant license term. Except as expressly provided in the applicable Order Form, renewal licenses will be priced at Validic's applicable list price in effect at the time of the applicable renewal.

**12.3. Termination.** Either party may terminate this Agreement at any time upon written notice to the other party if the other party: (i) breaches any material term hereof and fails to cure such breach within thirty (30) days after receiving written notice of such breach from the non-breaching party; (ii) ceases to do business in the normal course, (iii) becomes or is declared insolvent or bankrupt; or (iv) is the subject of any proceeding related to its bankruptcy, liquidation or insolvency (whether voluntary or involuntary) which is not dismissed within ninety (90) calendar days; or (v) makes an assignment of the benefit of creditors. Without limiting the foregoing, in the event of a breach that gives rise to the right by Validic to terminate this Agreement, Validic may elect, as an interim measure, to suspend its performance hereunder (including, without limitation, Client's right to access and use the Service and/or the API) until the breach is cured and all fees shall continue to accrue during the period of such suspension. Validic's exercise of its right to suspend

performance shall be without prejudice to its right to terminate this Agreement upon written notice to Client.

**12.4. Termination Specific to an End User.** Validic may terminate the use of Services or Equipment by any End User within 30 days after written notice is provided to Client that such End User has engaged in a prohibited use as described in the Equipment Terms or breach of any end user license agreement or other terms and conditions associated with use of the Services on a BYOD Device, and Client is in agreement with such termination. If Client is not in agreement with such termination, Validic will allow Client the opportunity to remedy the issue with the End User to Validic's satisfaction. Any such termination to the use of Equipment or Service by a particular End User will only apply to that End User, and will not affect any other End User or deployed Equipment or Service. Shipping and related device return costs, if any, will be paid by Client. Client is responsible for deleting or de-provisioning Connected Users from the Software Services. Notwithstanding the foregoing, Validic may, in its sole discretion, take any action with respect to any End User that Validic deems necessary or appropriate, including if Validic believes that such End User threatens the personal safety of any Validic employee or the public, or could create liability for the Company.

**12.5. Liquidated Damages.** Client agrees that the damages suffered by Validic as a result of early termination of the Agreement would be extremely difficult to calculate with precision and therefore liquidated damages should be computed as set forth herein. In the event of Validic's termination of this Agreement arising from Client's breach of this Agreement (or in the event of a termination or cancellation of this Agreement by Client in any manner not permitted by this Agreement), Client shall pay to Validic, as liquidated damages and not as a penalty, an amount equal to 100% of the fees required by each of the Order Forms that is in effect as of the date of such termination.

**12.6. Effect of Termination or Expiration.** Upon termination or expiration of this Agreement, the rights and obligations hereunder shall terminate immediately, except that (i) any payment or other obligation that has accrued as of the date thereof shall survive and continue in full force and effect, and (ii) the provisions of **Sections 1.6, 3, 4, 7, 8, 9, 10, 11.4, 11.5 and 12** of this Agreement shall all survive and continue in full force and effect. Upon Client's request, which shall be made within thirty (30) days of the termination date and at the sole expense of Client: (i) Validic shall deliver to Client any Equipment that has been returned to Validic or remains in Validic's possession; and (ii) Validic shall retrieve any Equipment in any End User's physical possession and deliver the same to Client so long as Client causes such End User to make Equipment reasonably available to Validic. If Client does not request the return of the Equipment within thirty (30)

days of the termination date of this Agreement and all Order Forms, Validic has no obligation to warehouse or store Equipment for Client and Validic is free to dispose of Equipment.

### **13. ADDITIONAL TERMS.**

**13.1. Entire Agreement.** The parties agree that this Agreement represents the complete and exclusive statement of the agreement between the parties and supersedes any proposal or prior oral or written agreement, or any other communications relating to the subject matter of this Agreement. This Agreement may be amended, modified or supplemented only by written agreement of both of the parties.

**13.2. Governing Law.** This Agreement shall be governed by and construed in accordance with the internal laws of the State of North Carolina, without giving effect to the principles of conflicts of law. The parties expressly exclude the United Nations Convention on Contracts for the International Sale of Goods from application to this Agreement. All disputes arising under this Agreement must be brought in the Federal or North Carolina state courts located in Wake County, North Carolina, which shall be the sole and exclusive jurisdiction and venue for all such disputes. The parties irrevocably consent to the personal jurisdiction of these courts.

**13.3. Assignment.** Either party may assign this Agreement without consent to an affiliate or in connection with the assigning party's merger, reorganization, acquisition, or other transfer of all or substantially all of its assets or voting securities. Notice of such assignment shall be timely made to the non-assigning party. Except as provided above, neither party may assign this Agreement or any rights or obligations hereunder without the prior written consent of the other party, which shall not be unreasonably withheld. This Agreement shall be binding upon and shall inure to the benefit of the parties' respective successors and permitted assigns. Any purported assignment in violation of the foregoing shall be void.

**13.4. Severability; Waiver.** If any term of this Agreement shall be found invalid, the term shall be modified or omitted to the extent necessary, and the remainder of this Agreement shall continue in full effect. The waiver by either party of a breach of any provision of this Agreement shall not constitute or be construed as a waiver of any future breach of any provision of this Agreement.

**13.5. Notices.** All notices, instructions, requests, authorizations, consents, demands, and other communications to a party pursuant to this Agreement shall be in writing and shall be delivered by one of the following means, with notice deemed given as indicated in

parentheses: (a) by personal delivery (when actually delivered); (b) by overnight courier (upon written verification of receipt); (c) by certified or registered mail, return receipt requested (upon verification of receipt); or (d) via electronic mail to the e-mail address maintained on Client's account or to Validic at the e-mail address provided by Validic. Notices relating to termination or indemnification shall be clearly identifiable as a legal notice, via e-mail with read receipt requested, or by certified mail.

All notices to Validic shall be addressed as follows:

Validic, Inc.

2093 Philadelphia Pike #7010

Claymont, DE 19703

Attn: Accounting Department.

All notices to Client, unless otherwise provided via e-mail, shall be to the address set forth in Client's applicable Order Form. Any party may change the address to which notice is to be given by notice given in the manner set forth above.

**13.6. No Rights in Third Parties.** This Agreement does not grant any rights or remedies to any person or entity that is not a party to this Agreement. No person or entity is a third-party beneficiary of this Agreement.

**13.7. Regulatory Examination.** The Parties acknowledge that each Party is subject to examination and audit by regulatory agencies. The Parties further acknowledge that federal and state regulatory agencies having supervision over such party may require access to facilities in order to examine and audit the performance of the Contracts by Validic. Each Party agrees to cooperate fully with respect to all such regulatory audits and further agrees to notify the other Party as soon as practicable of any formal request by any governmental agency to examine records pertaining to the other Party if such Party is not prohibited from notifying the other Party. The Parties further agree to amend this Agreement or the Contracts from time to time to the extent necessary to comply with privacy and information security requirements and directives (including, without limitation, the Guidelines) of regulators having jurisdiction over either Party.

**13.8. Independent Contractors.** The parties shall be independent contractors, and the relationship between the parties shall not constitute a partnership, joint venture, or agency. No party shall have the authority to make any statements, representations, or commitments of any kind, or to take any action, which shall be binding on the other party, without the prior written consent of such other party.



**13.9. Force Majeure.** Except for Client's payment obligations, each party will 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 such party, for so long as such party acts diligently to attempt to remedy the cause of any such delay or failure.

**13.10. Acceptance of Validic Policies.** Client acknowledges and agrees that Authorized Data and all other data and information provided by Client and its Connected Users through the use of the Service will be subject to Validic's Terms and Conditions (as amended from time to time, the "T&C," located at: <https://validic.com/terms-conditions/>), and will be collected, used, stored, and handled in accordance with Validic's Data Security Policy, (as amended from time to time, the "Data Security Policy," located at: <https://validic.com/data-security-policy/>), and Validic's Privacy Policy (as amended from time to time, the "Privacy Policy"), which is located at: <https://validic.com/privacy-policy>. By using the Service, Client on behalf of itself and its Connected Users accepts and agrees to be bound and abide by the Privacy Policy.

**13.11. Publicity.** Validic may factually identify Client as an existing customer on its website and in sales and marketing materials, so long as Validic does not do so in a manner that could reasonably lead any reader to assume that Client endorses, is responsible for or is associated with Validic or its Services.

**13.12. Counterparts.** This Agreement may be executed in several counterparts, each of which is an original but all of which shall constitute one and the same instrument.

**13.13. Electronic Signatures.** The Parties acknowledge and agree that (i) the issuance of an electronic signature shall be valid and enforceable as to the signing Party to the same extent as an inked original signature; and (ii) these documents shall constitute "original" documents when printed from electronic files and records established and maintained by either Party in the normal course of business.

**IN WITNESS WHEREOF,** authorized representatives of the parties have executed this Agreement effective as of the Effective Date.

[Company Name]

Validic, Inc.

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[Company Name]

Validic, Inc.

By:		By:	
	(Authorized Signature)		(Authorized Signature)
Name:		Name:	
	(Print or Type)		(Print or Type)
Title:		Title:	
Date:		Date:	

**Exhibit A**

**SERVICE LEVEL AGREEMENT -- SOFTWARE**

During the Term, the Service (excluding Third Party Services) will be operational and available to Client at least 99.5% of the time in any calendar month (the "SLA").

**DEFINITIONS**

The following definitions shall apply to the SLA.

**Downtime** - for the REST API, Downtime shall be deemed to occur during a minute when more than 5% of the calls made to the API during such minute return a 500-level error, as logged by Validic's servers. For the Streaming API, Downtime shall be deemed to occur during a minute when none of the Poke Events (12 per minute) are sent by Validic. Downtime shall not be deemed to occur during (i) system upgrades, enhancements and routine maintenance activities that are announced via customer email notification or on the Validic development blog upon two days advance notice or (ii) maintenance determined by Validic to be an emergency.

**Monthly Uptime Percentage** - means the total number of minutes in a calendar month minus the number of minutes of Downtime suffered in a calendar month, divided by the total number of minutes in a calendar month.

**Other Products Services** - means mobile apps, devices, and third-party software that are not maintained, warrantied or otherwise guaranteed by VALIDIC, including without

limitation, Apps, the Client systems and products, technologies, and services provided by Client.

**SLA Standards:**

Monthly Uptime Percentage	Days of Service added to the end of the Term at no charge to Client
< 99.5% - >= 98.0%	1
< 98.0% - >= 95.0%	3
< 95.0%	5

**Service Credit** - If the Monthly Uptime Percentage of the service falls below SLA Standards, a service credit may be issued to Client subject to the terms and conditions below. The issuance of Service Credits is the sole and exclusive remedy of Client and Validic's sole and exclusive obligation, for any failure by Validic to satisfy the SLA. In order to receive a Service Credit, Client must notify Validic in writing within fifteen (15) days from the time Client becomes eligible to receive a Service Credit (the "Downtime Notice"). Failure to comply with such requirement will result in Client forfeiting its right to receive a Service Credit. The aggregate maximum number of Service Credits to be issued by Validic to Client for all Downtime that occurs in a single calendar month shall not exceed five days of Service added to the end of the Term. Service Credits may not be exchanged for, or converted to, monetary amounts. Service Credits shall automatically be forfeited upon the termination of the Agreement prior to the expiration of the Term.

**SLA EXCLUSIONS**

**SLA Exclusions.** The SLA does not apply to any services that expressly exclude this SLA (as stated in the documentation for such services) or any performance issues: (i) caused by factors described in the "Force Majeure" section of the Agreement; or (ii) that resulted from Client's equipment or third party equipment, or both.

**Ineligible Clients.** Clients who at the time of Downtime claimed in a Downtime Notice are not current on their payment of the fees for the Services do not qualify for SLA Credits for such Downtime. In addition, Clients who have not paid their fees when due for the Services three or more times in the previous twelve calendar months do not qualify for SLA Credits.

**Errors in Implementation or Use.** The SLA does not apply to Downtime caused by Client's use of the Services or any Connected User's use of the Services after Validic advised Client or any Connected User to modify such use, if Client or any Client Connected User did not modify its use as advised.

## **EXHIBIT B**

### **EQUIPMENT TERMS**

#### **Device Ordering.**

1.1 **Device Order Forms.** Client may purchase Equipment under this Agreement through a Device Order Form. Each Device Order Form will be deemed to incorporate all of the terms and conditions of this Agreement. Each Device Order Form will contain the deliverable specifications for the Equipment ordered, minimum order obligations, quantity ordered, price, packing or shipping instructions, and requested delivery date. Validic will not order any Equipment without prior receipt and acceptance of a Device Order Form. Client will be responsible for fees for all quantities ordered in a Device Order Form, regardless of whether all such quantities have been deployed to End Users.

1.2 **End User Orders.** Upon receipt by Validic of an End User Order to be delivered to an End User address, which may be electronically or by other written instruction from Client, Validic will first process such order to count against Client inventory in stock, if any. If the ordered devices are available in Client inventory, Validic shall ship such devices per instructions from Client to an End User. In the event Client's inventory does not include the ordered device, Validic will promptly notify Client; provided, however, that the device ordered will not be shipped to the End User until sufficient Client Inventory is in stock. Client is responsible for the accuracy of the End User delivery address and Client will be responsible for any expenses related to relocating Equipment for an End User following delivery to the location specified in the End User Order, including due to a change of address of such End User.

1.3 Title. For Equipment sold to Client, title will pass to Client upon payment to Validic for the applicable Equipment. For Equipment rented to Client (“Units”), title shall remain with Validic at all times. Client acquires no ownership, title, property, right, equity, or interest in the Units other than its leasehold interest solely as lessee subject to all the terms and conditions of this Agreement. The Parties intend that each Unit shall remain at all times personal property and not a fixture under applicable law, even if the Unit, or any part thereof, may be or become affixed or attached to real property or any improvements.

1.4 Risk of Loss.

Validic's Responsibility. Validic shall maintain the risk of loss for Equipment in its possession, including while storing Equipment purchased by the Client at Validic's own facility, until such Equipment is delivered to a designated carrier for transportation to the Client or directly to an End User.

Client Liability upon Delivery. Once the Equipment is delivered and in the possession of the Client or End User, the Client shall assume all risks of loss, which includes but is not limited to damage, destruction, theft, expropriation, confiscation, or any other form of loss or diminution in value (“Loss”), regardless of the cause. The Client agrees to notify Validic in writing within five (5) business days upon discovering any Loss of Equipment under its custody or control.

1.5 Loss of Use of Rented Units. If Validic determines in its sole discretion that a Loss has materially impaired the Unit affected or its use, Client shall pay the Stipulated Loss Value of the Unit determined in accordance with the Device Order Form for that Unit (collectively, "Loss Payment"). This Agreement shall terminate with respect to any materially impaired Unit on receipt by Lessor of the corresponding Loss Payment. If Validic determines in its sole discretion that a Loss has not materially impaired the Unit affected or its use, this Agreement shall continue with respect to such Unit as though no Loss had occurred. There shall be no abatement of rent or rent credit for any period in which a Unit is in a shop or otherwise out of operation in connection with any maintenance, repairs, or mandatory modifications under this Agreement.

1.6 Novelty of Equipment. All purchased Equipment will be new, unless otherwise noted in a proposal or quote submitted to Client by Validic.

1.7 Equipment Documentation. Validic will include in the delivery of Equipment kits to End Users any guides, manuals, or other documentation, or links to such items, from the manufacturer, and/or any additional materials as provided by Client.

1.8 End User Authorized and Prohibited Use of Equipment. In accordance with the terms and conditions of this Agreement, Client may provide Equipment to End Users for their use.

Client will take reasonable measures to ensure that End Users: (i) use the Equipment in a manner that does not violate the terms of this Agreement, (ii) use the Equipment only for medical purposes and not for personal, family, or household purposes, (iii) use the Equipment in accordance with Kit Inserts, (iv) use the Equipment in accordance with all applicable laws and government regulations, (v) use the Equipment under the direction, with the approval, or with the involvement of a licensed authorized medical professional, as deemed appropriate by Client for each End User, and (vi) do not disassemble or modify the Equipment or decompile or reverse engineer any software provided with the Equipment. Validic is not responsible for re-issuing, cleaning, or repairing any Equipment that was contaminated with spore-forming contagions while in Client's or End User's physical possession.

1.9 Service Level Agreement. Validic Logistics Services will be delivered in accordance with the Logistics Services SLAs, attached hereto as Exhibit D.

1.10 Returns of Rented Units. Client shall cause any Unit returned under this Agreement to be in at least as good condition as when delivered to Client, ordinary wear and tear excepted, including without limitation the removal of any marks that Client is permitted to apply to the Unit, complete with all parts, and in compliance with applicable law. The condition of all parts on the return of any Unit shall be at least as good as when the Unit was delivered to Client. Any repairs to such parts necessary on return to restore them to a condition as good as when such Unit delivered, and any replacement of such parts required on return by their unfitness for use or damage beyond repair, shall be at Client's sole expense.

## **2. Changes.**

All changes to previously accepted Device Order Forms sought to be made by Client, including cancellations, must be provided in writing by Client and are subject to Validic's approval. If Equipment on a previously accepted Device Order Form that has not yet been delivered becomes discontinued or replaced by the original equipment manufacturer or if Validic is otherwise unable to meet the delivery requirements, Validic will provide notice to Client as soon as it is reasonably aware of such situation; in that case, the Parties will work in good faith to find a replacement or alternative Equipment that is functionally equivalent. If the Parties are unable to find a replacement or alternative Equipment, Client shall be entitled to a refund of any fees already paid.

## **3. Inspection and Acceptance.**

**3.1 Inspection upon Shipment to Client.** Without limiting Client's other rights and remedies under this Agreement, upon receipt of a shipment of Equipment from Validic to Client, Client will inspect such shipment solely to determine (i) whether it conforms to the type and quantity of Equipment ordered in the applicable Device Order, and (ii) whether there is any visible damage to the Equipment ("Initial Inspection"). The Parties agree that such Initial Inspection will not determine the functionality of the Equipment, the Equipment's conformance to specifications, or the presence or absence of any defects in material and workmanship. Client may reject any Equipment that does not satisfy the Initial Inspection, provided that if Client does not notify Validic in writing within five (5) business days after receipt of a shipment of a problem with the shipment, such shipment will be deemed to conform with the Device Order Form solely as to type and quantity of Equipment. If Client or the applicable End User notifies Validic of a nonconformance with a Device Order Form during the Initial Inspection, then Validic will remedy such non-conformity within one (1) business day and pay all shipping costs associated with the return and re-shipment of the applicable Equipment. Client acknowledges and agrees that the remedies set forth in this Section 3.1 are Client's exclusive remedies for the delivery of Nonconforming or Damaged Equipment as defined herein. Except as provided under Section 3.1, all sales of Equipment to Client are made on a one-way basis and Client has no right to return Equipment purchased under this Agreement to Validic.

**3.2 Inspection after Initial Inspection.** Client may conduct inspection and acceptance testing of Equipment post-Initial Inspection. Client will provide Validic with written notice of any defect in the applicable Equipment. Validic will address and remedy issues described in the notice of defect within a reasonable period. Upon Validic's notice to Client that it has corrected and remedied such defect, Client will have a new inspection and acceptance period. Acceptance of delivered Equipment will automatically be deemed to have occurred if Client does not provide a notice of defect within five (5) business days following the date of Equipment delivery or re-delivery.

#### **4. Product Warranties.**

Validic represents and warrants that Validic has clean, marketable, and unencumbered title to all Equipment. Client acknowledges and understands that the Equipment is manufactured by Original Equipment Manufacturers (OEMs) and may be shipped via a distributor. Equipment is provided by Validic "as is," and manufacturer or distributor warranties may apply. Client acknowledges that data services, if applicable, are provided by third parties and that any "downtime" related to third-party service outages is not included in Service Level Agreements herein. Accordingly, Validic's sole responsibility to Client with respect to any Equipment or components and parts thereof provided under this

Agreement will be to pass through to Client the available warranties of such original Equipment manufacturer or data provider and provide commercially reasonable assistance to Client in pursuing such pass-through warranties. Client shall not provide any warranties to End User or any third party with respect to Equipment that are inconsistent with the warranties provided by Validic to Client in this Agreement or that expand such warranties. THESE WARRANTIES (i) CONSTITUTE CLIENT'S SOLE AND EXCLUSIVE WARRANTIES WITH RESPECT TO THE EQUIPMENT, AND (ii) ARE IN LIEU OF ANY OTHER WARRANTY, EXPRESS, IMPLIED, OR STATUTORY, INCLUDING WITHOUT LIMITATION, THE WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

## **5. Regulatory.**

5.1 Product Recalls. The Parties will maintain adequate records of all sales of Equipment to enable Validic to administer any regulatory recall with respect to specific Equipment ("Recall") in accordance with applicable legal requirements and guidance issued by the applicable governmental or regulatory authority. In the event of a Recall, (i) neither Party may make any public statement regarding the Recall without the other Party's prior written consent, which consent will not be unreasonably withheld, conditioned, or delayed. All such requests for use of Client's name must be submitted to [[PLEASE PROVIDE]] at least 5 business days prior to date on which a response is needed, (ii) Validic will work in good faith with Client to provide reasonable support and assistance in connection with complying with such Recall, and (iii) with respect to sold Equipment, Validic will pass to Client all reimbursements received from the applicable manufacturer with respect to the recalled Equipment. This Section 5.1 (Product Recalls) sets forth Validic's sole liability with respect to any Recall.

## **EXHIBIT C**

### **SERVICE DESK TERMS**

#### **1. Services.**

1.1 Service Desk. Client may engage Validic to provide phone support to End Users, Connected Users, and clinicians, including technical support, administrative support, customer service, and outbound welcome calls. These services will be described in detail in one or more Service Desk SOWs.

1.2 Location of Services. Validic and, if applicable, any of its subcontractors will operate in the United States. Client information, including Protected Health Information as defined by HIPAA, will be accessed from and stored in the United States. Any request to transmit or



make available any Client Data to any entity or individual outside the United States must be preapproved by Client.

**1.3 Scope of Services.** Validic Service Desk Services will be provided in English unless otherwise provided in a Service Desk SOW. Validic Service Desk Services will be delivered in accordance with the Service Desk Services SLAs, attached hereto as Exhibit E.

**1.4 Service Desk Services Exclusions.** Technical support services are not offered on behalf of the Original Equipment Manufacturers (OEMs) of any devices. Accordingly, Validic Service Desk services do not include and Service Desk personnel are not able to process warranty claims, issue refunds, or otherwise manage inventory on behalf of Client. Validic Customer Success executives will handle any inventory issues related to malfunctioning or defective devices purchased through Validic's device logistics services, if applicable. Support questions or tickets related to Validic Software will be handled via the technical service procedures outlined in such Validic Software SOW, if any.

**1.5 End User Contact and Communication.** The Client acknowledges and agrees that Validic will make reasonable efforts to contact End Users for the purposes of delivering, installing, and supporting Equipment and Services as agreed in the applicable Order Form. However, the Client understands that such communication efforts by Validic are subject to the responsiveness and availability of the End Users. The Client agrees and accepts that despite Validic's good faith efforts, there is no guarantee that all End Users will be reached or that communications will be acknowledged or acted upon by End Users. For avoidance of doubt, a given End User's inability to connect a device to the Service shall not be deemed Downtime for any Service Level Agreement hereunder. Likewise, in the event Validic is unable to establish contact with an End User, Validic shall not be responsible for any Equipment that may have been shipped to such End User.

## **2. Changes.**

All changes to previously accepted Service Desk SOWs sought to be made by either party, including cancellations, must be provided in writing and mutually agreed to by both parties in a signed Amendment.

## **3. Client Obligations.**

**3.1 End User Information.** Client is solely responsible for providing Validic with current and correct contact information for any End User to whom Validic Service Desk Services will be provided.

3. 2 Not Emergency Services. Client acknowledges and agrees that Validic Service Desk personnel are not equipped to provide emergency response in the event of a medical or other emergency. There is no way for Validic Service Desk personnel to determine the location of an End User and Validic is not responsible for accessing medical or other emergency services care on behalf of an End User. Client agrees to provide each End User with information necessary to access medical care appropriate to their condition in their area, if applicable.

**4. Disclaimer of Emergency Services or Medical Advice.**

4.1 Service Desk personnel do not serve as emergency responders.

4.2 Neither Validic nor its personnel should be considered nor used as a substitute for medical advice, diagnosis, or treatment. Client shall ensure that any End User is instructed to always seek the advice of a physician or other qualified health care provider with any questions regarding personal health or medical conditions.

**EXHIBIT D**

**SERVICE LEVEL AGREEMENT - DEVICE LOGISTICS**

Validic provides the following Service Levels Agreements (SLAs) for services from Supply Chain and Warehouse.

Activity	Department	Response Time
Shipment/Order Fulfillment - Received prior to 2pm EST*	Supply Chain	Same Day*

\*Shipping SLAs are based on the assumption that Client-owned inventory is available to fulfill orders. In the event Client is placing an order for new devices, Validic cannot guarantee when it will receive such new inventory but will ship according to the above service level agreements upon receipt in inventory.

Validic Warehouse Customer Service Hours of Operation:

- Monday through Friday 8AM - 6PM EST

Validic Logistics observes the following holidays:

- New Year's Day (Observed)
- Martin Luther King Jr. Day
- Memorial Day
- Juneteenth (Observed)
- Election Day
- Independence Day (Observed)
- Labor Day
- Thanksgiving Day
- Christmas Day (observed)

The New Year's, July 4th or Christmas Day observed holidays may fall on a Friday or a Monday if the actual holiday occurs on a Saturday or Sunday. For example: if New Year's Day falls on a Sunday, Validic will observe the Monday directly following the holiday.

## **EXHIBIT E**

### **SERVICE LEVEL AGREEMENTS - SERVICE DESK**

Validic provides the following Service Levels Agreements (SLAs) for Validic Service Desk Services.

Phone Support: Telephone support for connected devices issued pursuant to an Order Form under this Agreement will be available in English to End Users authorized by the Client.

If all support representatives are on the line or the call is after hours, calls will forward to voicemail and will be returned per the following SLAs.

Activity	Department	Resp
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Voicemail messages left during normal business hours response time	Validic Service Desk Support	4 business hours
Tickets received during normal business hours response time*	Validic Service Desk Support	4 business hours
Voicemail received outside of the defined work hours response time	Validic Service Desk Support	4 business hours

Validic Service Desk Hours of Operation:

- Monday through Friday 8AM - 8PM EST
- Saturday and Sunday 9AM - 6PM EST

Validic Service Desk observes the following holidays:

- New Year's Day (Observed)
- Memorial Day
- Juneteenth (Observed)
- Election Day
- Independence Day (Observed)
- Labor Day
- Thanksgiving Day and the Friday after Thanksgiving
- Christmas Day (observed)

The New Year's, July 4th or Christmas Day observed holidays may fall on a Friday or a Monday if the actual holiday occurs on a Saturday or Sunday. For example: if New Year's Day falls on a Sunday, Validic will observe the Monday directly following the holiday.

