

## Exhibit A – Terms of Service

This Client Service Agreement (the “Agreement”) by and between PVERIFY and Client, as may be amended from time to time, sets forth the terms of service governing all order forms entered into by the parties pursuant to which PVERIFY provides certain enumerated services to Client.

**pVerify, Inc.**, herein referred to as PVERIFY and the Client identified above agree to the following:

### TERMS

- 1.1 **Definitions.** Capitalized terms have the meanings ascribed to them in this Exhibit A, including the definitions set forth below, in the exhibits to this Agreement, as they may be updated and supplemented from time to time, and elsewhere in this Agreement:

“**Agreement**” has the meaning set forth in the preamble of this Agreement.

“**Applicable Law**” means any and all applicable federal, state, local common law rules, regulations directives and guidelines, including but not limited to the Health Insurance Portability and Accountability Act (“HIPAA”) and related regulations; the Health Information Technology for Economic and Clinical Health Act (“HITECH”) and related regulations; the Anti-Kickback provisions of the Social Security Act and related regulations; and the federal Physician Self-Referral Prohibition provisions of the Social Security Act and related regulations.

“**Client**” has the meaning set forth in the preamble of this Agreement.

“**Client Marketing Information**” means Client marketing claims and other marketing information.

“**Client Proprietary Content**” means information entered into the PVERIFY Platform by Client, which shall be limited to information necessary to provide the Services and shall exclude, without limitation, Client Marketing Information.

“**Party**” and “**Parties**” has the meaning set forth in the preamble of the Agreement.

“**PHI**” means (subject to the definition at 45 C.F.R. § 160.103) protected health information that PVERIFY receives from Client or that PVERIFY creates or receives on behalf of Client.

“**PVERIFY**” has the meaning set forth in the preamble of the Agreement.

“**Product**” means any product to which Client subscribes pursuant to an Order Form.

“**Renewal Subscription Term**” has the meaning set forth in the preamble of the Agreement.

“**Services**” shall mean the services to be provided by PVERIFY to Client as set forth in the Agreement cover sheet and any amendments.

“**Subscription Term**” has the meaning set forth in the preamble of the Agreement.

## DESCRIPTION OF SERVICE

**2.1 Products and Services Generally.** From time to time, the Parties may enter into one or more Order Forms pursuant to which Client (a) subscribes to specified PVERIFY Products (each, a “Subscription”) for the Initial Subscription Term (renewing as set forth on the Cover Page); and/or (b) engages PVERIFY to provide related implementation, integration, training, consulting, or other services (“Professional Services” or “Services”), in each case listing the fees (“Fees”) to be paid by Client to PVERIFY for such Subscription and/or Services. Each Order Form will be consecutively numbered (Order Form No. 1, Order Form No. 2, etc.). PVERIFY agrees to provide, and Client agrees to accept, certain transaction services, as set forth in the Client Service Agreement(s) between PVERIFY and Client, according to the terms and conditions contained herein.

## PLATFORM ACCESS

**3.1 Access Grant.** Subject to the terms and conditions of this Agreement (including any applicable Order Forms), PVERIFY hereby grants Client a limited, personal, non-exclusive, non-transferable, non-sublicensable, fee-bearing license, during the applicable Subscription Term, to access and use the PVERIFY Products specified in such Order Form (the “**Licensed Technology**”) through the PVERIFY portal or API. Such Licensed Technology may include PVERIFY’s (a) Portal; (b) API Integration (or other Integration as defined herein); (c) SFTP connection; and/or (d) any other proprietary software modules and features. Without limitation, Client acknowledges that its access and use of the Licensed Technology is subject to its agreement and compliance with these terms of service and any other agreements as may be provided or modified from time- to-time (“**End User Agreements**”).

The PVERIFY portal is designed to enable Client to run various reports and searches relating to the provision of patient care. It includes (a) text, graphics, and data (excluding Client Proprietary Content and Client Marketing Information); (b) an interface and procedures for selecting, searching, using, interacting with and acting upon such text, graphics, and data; and (c) software, including scripts, whether intended to execute on one or more servers or installed on or downloaded to a client device, for implementing the foregoing.

**3.2 Restrictions.** Client will not provide access to the Licensed Technology to any person who is not an authorized employee or independent contractor of Client (“**Authorized User**”). Client will be responsible and liable for all Authorized Users’ compliance with the terms and conditions of this Agreement, including any Order Forms. Client’s use of any Licensed Technology is limited to the scope of the rights granted under Section 3.1 and as set forth in this Agreement, including the applicable Order Form. Client shall not otherwise use Licensed Technology in any way. The Licensed Technology constitutes proprietary information and valuable trade secrets of PVERIFY. Without limiting the generality of the foregoing, Client shall not, and shall not permit or suffer any third party to: (b) use the Licensed Technology for any purpose other than as expressly permitted by and in accordance with this Agreement, including the applicable Order Form; (c) modify, adapt, alter, translate, or create derivative works of or based on the Licensed Technology or any accompanying materials; (d) sublicense (except to the extent expressly permitted in the applicable Order Form), distribute, sell, use for service bureau or timesharing purposes, lease, rent, loan, or otherwise transfer or make available the Licensed Technology to any third party; (e) reverse engineer, decompile, disassemble, decode, adapt, or otherwise attempt to derive the source code or the underlying design, functionality, or structure of the Licensed Technology; (f) otherwise use, reproduce, display, or copy any software or code that is part of the Licensed Technology; (h) damage, destroy, disrupt, disable, impair, interfere with, or otherwise impede or harm any other PVERIFY client’s or user’s access to or use of the Licensed Technology; (i) display, modify, reproduce or distribute any images, or portion(s) thereof, included with, visible upon access to, or relating to the Licensed Technology, including the Portal; (j) access or use any Licensed Technology outside of the United States; or (k) access or use any Licensed Technology in violation of any Applicable Laws.

**3.3 Monitoring.** Subject to Applicable Law, PVERIFY may but is not obligated to monitor, collect, and share with Client usage data regarding the Licensed Technology and compile statistical and performance

information related to the operation and access to the Licensed Technology for the internal use of Client and PVERIFY and other lawful purposes. Without limiting the generality of the foregoing, PVERIFY may (i) verify that use of the Licensed Technology is within the parameters specified in this Agreement, (ii) track and assess fees and other amounts payable hereunder, and (iii) analyze performance. If such monitoring reveals that the Licensed Technology is being used contrary to the terms and conditions of this Agreement, Client shall promptly pay PVERIFY additional fees consistent with actual use of the Licensed Technology, which assessment of additional fees shall be without prejudice to any other legal or equitable remedies PVERIFY may have, including but not limited to termination of the Agreement.

**3.4 No Other Rights.** PVERIFY grants and Client obtains only the rights granted under this Agreement, including the applicable Order Form. Any rights not expressly granted to Client hereunder are expressly reserved to PVERIFY.

## PROFESSIONAL SERVICES

**4.1 PVERIFY Responsibilities.** PVERIFY shall develop and maintain software for providing the PVERIFY products and services. PVERIFY shall have no obligation to make upgrades or to make improvements to the Licensed Technology or to make upgrades or improvements available to Client, except to use commercially reasonable efforts as may be necessary to keep the Services functioning during the then-current Term consistent with the standards in this Agreement; provided doing so is within PVERIFY's control and subject to the terms and conditions of this Agreement. Any upgrades or improvements that are made available to Client may be licensed under the terms of this Agreement and may have additional associated Fees as set forth in an Order Form or amendment thereto. PVERIFY shall conform to the Service Commitments found at **Exhibit B**, Service Level Agreement, and incorporated herein.

**4.5 Force Majeure and Third-Party Delay and Non-Performance.** PVERIFY shall not be liable for delays in performance under this Agreement or for failure to perform hereunder by reason of any third party's failure to provide PVERIFY with the data necessary for complete and proper transmission of the Services. In the event that PVERIFY is delayed, hindered in or prevented from the performance of any work or service by an act of God (all of such activities being beyond the control of PVERIFY), then performance of such work, service or other acts shall be excused for a period of such delay and the performance of such work, services or other acts shall be extended for a period equivalent to the period of such delay; provided, however, Client may elect terminate this Agreement immediately upon written notice if such period of delay exceeds 7 business days.

## REPRESENTATIONS AND WARRANTIES OF PVERIFY

**5.1 General.** PVERIFY hereby represents, warrants, and covenants that:

(a) General Representation. Subject to Section 5.4 below, PVERIFY will (i) use commercially reasonable efforts consistent with prevailing industry standards to perform and maintain the PVERIFY Products that minimizes errors and interruptions in the PVERIFY Products, and (ii) perform the PVERIFY Services for Client in a professional and workmanlike manner.

(b) Conformance to Specifications. PVERIFY represents and warrants that PVERIFY Services and PVERIFY Products provided hereunder shall conform to the applicable PVERIFY Specifications in all respects. This warranty does not apply to any media or documentation which has been subjected to damage or abuse or to any claim resulting, in whole or in part, from changes in the operating characteristics of computer hardware or computer operating systems made after the release of the applicable PVERIFY Product or Services, or which result from problems in the interaction of PVERIFY Product or Services with third-party software or equipment not approved or provided by PVERIFY, or from a breach by Client of any of its obligations hereunder.

(c) Anti-Virus. PVERIFY maintains industry standard methods, including current anti-virus software, to

defend against viruses, Trojan horses, worms, time bombs, cancelbots or other computer programming routines that are intended to damage, detrimentally interfere with, surreptitiously intercept or expropriate any system, data or personal information.

(d) Security Assessment and Provision of Audited Security Controls. Promptly after written (including email) request from Client, PVERIFY shall provide Client with: (i) its most recent SOC II, Type 2 report; and (ii) provide its completed Standardized Information Gathering (SIG) questionnaire (or similar document) (the "Security Documentation"). Any information or documentation provided pursuant to this assessment process or otherwise pursuant to this Section shall be considered PVERIFY's Confidential Information and subject to Section 8 of this Agreement.

**5.2 Nonconformity.** In the event that a documented and reproducible flaw inconsistent with this warranty is discovered, PVERIFY's sole responsibility shall be to use commercially reasonable efforts to correct such flaw in a timely manner.

**5.3 Primary Disclaimer.** THE LICENSED TECHNOLOGY AND ALL SERVICES ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS AND PVERIFY (INCLUDING ITS LICENSORS) DISCLAIMS ANY AND ALL WARRANTIES WITH RESPECT THERETO, WHETHER EXPRESS, IMPLIED (EITHER IN FACT OR BY OPERATION OF LAW), OR STATUTORY, EXCEPT AS OTHERWISE EXPRESSLY PROVIDED IN THIS AGREEMENT. PVERIFY DOES NOT WARRANT THAT THE PVERIFY PORTAL, PVERIFY PRODUCTS, OR THE CONTENT OR INFORMATION MADE AVAILABLE THEREON WILL BE SECURE, UNINTERRUPTED OR ERROR FREE; NOR DOES PVERIFY MAKE ANY WARRANTY THAT THE PVERIFY PRODUCTS OR SERVICES OR SUCH CONTENT WILL MEET CLIENT'S OR ANY OTHER PERSON'S REQUIREMENTS, ACHIEVE ANY PARTICULAR RESULT, BE COMPATIBLE WITH OR WORK WITH ANY SOFTWARE, SYSTEM OR OTHER SERVICES, OR BE SECURE, ACCURATE, COMPLETE, FREE OF HARMFUL CODE OR ERROR FREE. PVERIFY MAKES NO ADDITIONAL REPRESENTATIONS OR WARRANTIES OF ANY KIND, WHETHER EXPRESS, IMPLIED (EITHER IN FACT OR BY OPERATION OF LAW), OR STATUTORY, AS TO ANY MATTER WHATSOEVER, AND EXPRESSLY DISCLAIMS ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, QUALITY, ACCURACY, TITLE, AND NON-INFRINGEMENT. ALL THIRD-PARTY SERVICES ARE ALSO PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS AND SUBJECT TO ANY APPLICABLE THIRD-PARTY SERVICE PROVIDER TERMS AND CONDITIONS. ANY REPRESENTATION OR WARRANTY OF OR CONCERNING ANY THIRD-PARTY SERVICES IS STRICTLY BETWEEN CLIENT AND THE THIRD-PARTY SERVICE PROVIDER.

**5.4 Additional Disclaimers.** Without limiting the generality of Section 7.4, the following additional disclaimers apply.

(a) THE INFORMATION RETURNED BY PVERIFY IS AS CURRENT AS POSSIBLE. THERE ARE TIMES IN WHICH THE VARIOUS CONTENT CONTRIBUTOR'S PRIMARY RESOURCES ARE NOT SYNCHRONIZED OR UPDATED ON THE SAME TIME INTERVAL, HENCE THERE COULD BE SOME DISCREPANCY ON RARE INSTANCES, PVERIFY IS NOT LIABLE AND MAY NOT BE HELD RESPONSIBLE FOR THOSE MISMATCHES AS THEY ARE OUTSIDE TO PVERIFY'S CONTROL.

## **REPRESENTATIONS AND WARRANTIES OF CLIENT.**

Client hereby represents, warrants, and covenants under penalty of perjury and fraud that:

**6.1 No Conflicts.** Client is not under any pre-existing obligation inconsistent with the provisions of this Agreement and shall not enter into any such obligation.

**6.2 Compliance with Laws.** (a) Client shall perform under this Agreement and use the Licensed Technology only in compliance with Applicable Law.

**6.3 Rights.** Client has the right and unrestricted ability to assign the intellectual property to PVERIFY as set forth in Section 10, and such intellectual property does not infringe upon any copyright, trade secret, trademark (including service marks), trade dress, patent, invention, know-how, methodology, industrial design right, right of publicity or privacy, or any other intellectual property or proprietary right of any person, including any application for registration of any of the foregoing, whether contractual, statutory or at common law and whether registered or unregistered.

**6.4 Conduct.** Client shall not act in any manner that may detrimentally affect the operations, prospects, or reputation of PVERIFY or any of its customers.

**6.5 Nondisparagement.** Client shall not disparage, or make any negative statements about, PVERIFY or any of PVERIFY's officers, managers, members, employees, customers, investors, agents, advisors or other consultants, in any manner likely to be harmful to PVERIFY or its business or business reputation; *provided* that Client may respond accurately and fully to any question, inquiry, or request for information when legally required.

**6.6 Insurance.** With respect to all acts and omissions related to this Agreement by either Party, each Party shall have and maintain the following insurance coverages.

(a) Commercial General Liability Insurance with minimum limits of \$1 million per occurrence and \$2 million annual policy aggregate, including coverage for premises liability, completed operations, contractual liability, bodily injury (including death), and property damage, covering all of Client's activities related to this Agreement;

(b) Workers' Compensation as required by Applicable Law;

(c) Employer's Liability Insurance with minimum limits of (i) \$1 million per occurrence covering bodily injury by accident, (ii) \$1 million per employee covering bodily injury by disease, and (iii) \$2 million annual policy aggregate;

(d) Professional Liability (E&O) Insurance covering all activities of Client and its Prescriber End Users related to this Agreement, with minimum limits of \$1 million per occurrence and \$2 million annual policy aggregate; and

(e) Cyber Liability Insurance covering all activities of Client and its Prescriber End Users related to this Agreement, with minimum limits of \$1 million per occurrence and \$2 million annual policy aggregate.

If, in any of the foregoing cases, Client has procured a claims- made based policy (or policies) and it (or they) are cancelled or not renewed, Client agrees to exercise any option in such policy (or policies) to extend the reporting period to the maximum period permitted; *provided, however*, that Client need not exercise such option if the superseding insurer will accept all prior claims. Each of Client's insurance policies shall (i) be issued by companies that have an A.M. Best rating of not less than "A-", and are in a size category which is not lower than "VIII"; (ii) be primary and noncontributory with any of PVERIFY's insurance; (iii) add PVERIFY as an additional insured (except for those policies maintained pursuant to paragraphs (c) and (e) of this Section); (iv) be maintained during the Term and for a period of not less than three (3) years thereafter; and (v) not be cancelled or non-renewed except upon at least sixty (60) days prior written notice to PVERIFY. Upon request, Client shall provide to PVERIFY certificates evidencing all insurance and endorsements required by this Section. Nothing in this Section shall be construed as limiting in any manner Client's obligations or liability to PVERIFY under this Agreement.

**6.7 Flow-down Obligations.** Client will flow-down to all Authorized Users its obligations under this Agreement. Client agrees to comply, and to cause its Authorized Users to comply, with the requirements as set forth in this Agreement, notwithstanding any other provision of this Agreement.

**6.8 Security Obligations.** Client agrees to utilize security controls provided by PVERIFY to maintain secure communications and secure data transfers for the term of this Agreement. Client also agrees to

notify PVERIFY Security at [itsecurity@dosespot.com](mailto:itsecurity@dosespot.com) of any security breach within 24 hours.

## **TERM AND CANCELLATION:**

**7.1 Agreement Term.** This Agreement is effective from the date of execution by both parties (the "Effective Date"). The Agreement Term shall be the term set forth in the Order Form and shall automatically renew for each subsequent term, in the duration set forth in the Order Form, unless otherwise specified or terminated in accordance with this Section 7.

**7.2 Termination for Convenience.** Either party hereto may terminate this Agreement at any time without cause upon sixty (60) days' written notice (during or after the initial term).

**7.3 Termination for Cause.** In addition to any other remedies it may have, either Party may terminate this Agreement and/or any Order Form upon written notice if the other Party materially breaches this Agreement or such Order Form, respectively, and fails to cure such breach within thirty (30) days of receipt of written notice specifying the alleged breach.

**7.4 Termination by PVERIFY.** Notwithstanding the foregoing or any other provision of this Agreement, PVERIFY may terminate this Agreement and/or the applicable Order Form immediately upon providing written notice to Client (a) for Client's nonpayment of any amounts due and payable under this Agreement or such Order Form; (b) for any suspected or actual breach or violation by Client of applicable law; or (c) for Client's violation of PVERIFY's rights under Section 9 (Intellectual Property).

**7.5 Modifications.** Any request to lower the contracted minimum requires an updated contract and one (1) calendar month notice before changes are executed.

## **FEES, BILLING, PAYMENT TERMS AND PRICING POLICY**

**8.1 Fees.** In consideration of the Product and Services provided under this Agreement, Client agrees to pay the agreed upon fees as noted above and further described herein. With respect to billing, payment terms and pricing policy, Client agrees to the following:

- (a) **Implementation Fees.** All implementation fees will be paid up-front prior to the commencement of work.
- (b) **Billing:** billed according to the payment schedule selected as follows:
  - a. **Monthly Billing.** Subscription plans will be billed monthly at the beginning of the month in which they will be utilized via predetermined payment method (Credit Card, ACH or eCheck). If transaction volume exceeds the monthly maximum, then pVerify will assess overage fees that will be applied in the invoice sent at the beginning of the subsequent month. For Agreement Dates on other than the first of the month, the first month will be prorated through the end of that month and then proceed on a monthly basis thereafter.
  - b. **Quarterly Billing:** Subscription plans will be billed quarterly at the beginning of the quarter in which they will be utilized via predetermined payment method (Credit Card, ACH or eCheck). If transaction volume exceeds the quarterly maximum, then pVerify will assess overage fees that will be applied in the invoice sent at the beginning of the subsequent quarter. For Agreement Dates on other than the first day of the quarter, the first quarter will be prorated through the end of that quarter and then proceed on a monthly basis thereafter.
  - c. **Annual Billing:** : Subscription plans will be billed annually at the beginning of the annual period in which they will be utilized via predetermined payment method (Credit Card, ACH or eCheck). If transaction volume exceeds the quarterly maximum, then pVerify will assess

verage fees that will be applied in an invoice sent at the beginning of the subsequent quarter. For Agreement Dates on other than the first day of the fiscal quarter (January 1, April 1, July 1, or October 1), the initial billing period will be prorated through the end of that fiscal quarter, and annual billing will then commence at the start of the next fiscal quarter.

d.

- (c) **Multiple Locations:** This is a master agreement between PVERIFY and Client. While Client may offer this to any number of its locations, PVERIFY will only generate one bill but will provide break-up to help Client analyze the usage amount of its locations(clients).
- (d) **Negotiated Pricing:** The agreed upon pricing listed in this Contract, including both implementation fees and cost per transaction, is based fully on the volume, complexity, time, and effort of the work required, established during the qualifying and trial phases between Client and PVERIFY. If, during on-boarding procedures, the requested effort from the Client surpasses the previously established expectation or the complexity of the API/Integration (if applicable) has increased due to Client's requirements, the pricing herein will be void and good faith renegotiations will be required based on the newly established effort requirements.
- (e) **Late Payment:** If for any reason payment is not received within thirty (30) days from the end of the month, PVERIFY may, at its sole discretion, suspend Client's access to the PVERIFY Products and Services. Client shall be responsible to PVERIFY for all costs incurred by PVERIFY to collect any outstanding balances due PVERIFY, including but not limited to reasonable attorney's fees and court costs. In the event any dispute arises involving any of the items contained on PVERIFY's invoice, Client agrees to promptly notify PVERIFY of said dispute but will not withhold payment. PVERIFY will assess and Client agrees to pay a finance charge equal to 1.0% per month (12% per year) on all outstanding balances (other than disputed charges) 31 days and older.

**8.2 Billing.** In consideration of the Fees, Billing, Payment Terms and Pricing Policy provided under this Agreement, Client will pay the agreed upon fees via contact and method submitted to pVerify consisting of the following information:

Name  
Phone  
Email  
Preferred Billing Method (Credit Card or ACH)  
Other Instructions/Additional Information

**8.3 Taxes.** All amounts payable by Client to PVERIFY are exclusive of any sales, use, and other taxes or duties, however designated, including withholding, royalties, know-how payments, customs, privilege, excise, sales, use, value-added, and property taxes (collectively, "**Taxes**"). Client will be solely responsible for payment of any Taxes, except for those based on PVERIFY's income. Client will not withhold any Taxes from any amounts due to PVERIFY.

**8.4 Pricing.** All Fees that apply during any Renewal Subscription Term shall increase by three percentage points (3%) from the Fees payable during the prior Subscription Term or Renewal Subscription Term, as applicable. PVERIFY will notify Client at least forty-five (45) days prior to the end of the then current Subscription Term or Renewal Subscription Term of any increase in the Fees that are greater than a five percentage point (5%) increase in such Fees from the prior Subscription Term or Renewal Subscription Term. All such increases in Fees shall automatically take effect on commencement of the Renewal Subscription Term unless Client elects to terminate the applicable Order Form or this Agreement as set forth in Section 7.2.

## CONFIDENTIALITY:

**Definition.** As used in this Agreement, “**Confidential Information**” means any and all technical and non-technical information of a Party (the “**Disclosing Party**”) to this Agreement (including patents, copyrights and works of authorship, trademarks (including service marks), trade secrets, trade dress, and proprietary information, techniques, sketches, drawings, models, inventions, know-how, methodologies, industrial design rights, processes, apparatus, equipment, algorithms, software programs, and software source documents), whether registered or unregistered, and including any application for registration of any of the foregoing, related to the current, future and proposed business, products and services of such Party, and its suppliers and customers, and includes information concerning development, design details and specifications, engineering, customer lists, business forecasts, sales, and marketing plans and any other similar information or data which is disclosed to the other party (the “**Recipient**”) or to which the Recipient otherwise gains access as a result of performing under this Agreement. “Confidential Information” also includes proprietary or confidential information of any third-party that may disclose such information to the Disclosing Party in the course of the Disclosing Party’s business and all other information that a Party knew, or reasonably should have known, was the Confidential Information (in each case, whether labeled “Confidential” or not). Confidential Information does not include information that: (i) is in the Recipient’s possession at the time of disclosure as shown by the Recipient’s files and records immediately prior to the time of disclosure; (ii) before or after it has been disclosed to the Recipient, enters the public domain, not as a result of any action or inaction of the Recipient; (iii) is approved for release by written authorization of the Disclosing Party; (iv) is disclosed to the Recipient by a third party not in violation of any obligation of confidentiality; or (v) is independently developed by the Recipient without reference to the Disclosing Party’s Confidential Information.

**Nondisclosure and Nonuse.** The Recipient agrees not to use the Confidential Information of the Disclosing Party for any purpose except to the extent necessary to fulfill its obligations under this Agreement. The Recipient agrees not to copy, alter, modify, disassemble, reverse engineer or decompile any of the materials comprising Confidential Information, unless permitted in writing by the Disclosing Party, agrees to establish and maintain appropriate safeguards against the destruction, loss or alteration of Confidential Information, and otherwise agrees to safeguard Confidential Information in a manner no less rigorous than it protects its own information of a similar nature, but no less than reasonable safeguards. The Recipient agrees not to disclose the Confidential Information to any third parties or to any of its employees, contractors or agents except those who have a need to know the Disclosing Party’s Confidential Information to enable the Recipient to fulfill its obligations under this Agreement; *provided*, that such parties shall be made aware that such Confidential Information is confidential to the Disclosing Party and shall be under a written contractual restriction on non-disclosure and proper treatment of Confidential Information that is consistent with and no less rigorous than the terms of this Section. Notwithstanding the foregoing, the Recipient may disclose the Disclosing Party’s Confidential Information to the extent required by a valid order of a court or other governmental body or by Applicable Law and to its attorneys, financial advisers, lawyers or accountants (“**Representatives**”). The Recipient agrees that it shall treat the Confidential Information with the same degree of care as it accords its own Confidential Information of a similar nature; provided that in no event shall the Recipient exercise less than reasonable care to protect the Disclosing Party’s Confidential Information. The Recipient agrees to advise the Disclosing Party in writing of any misappropriation or misuse by any person of the Disclosing Party’s Confidential Information of which the Recipient may become aware. The Recipient will not communicate any information to the Disclosing Party in violation of the proprietary rights of any third party.

**Return or Destroy.** Except as required by law, any Confidential Information furnished to the Recipient, and all copies thereof, at the earlier of the Disclosing Party’s request, or the termination of the business relationship between the Disclosing Party and the Recipient, at the Disclosing Party’s option, will either be: (a) promptly returned to the Disclosing Party; or (b) destroyed by the Recipient (with the Recipient providing written certification of such destruction to the Disclosing Party) *provided, however*, that neither Recipient nor any of its Representatives shall be required to



destroy any electronic copy of any Confidential Information that is created pursuant to its standard electronic backup and archival procedures if (i) personnel whose functions are not primarily information technology in nature do not have access to such retained copies, and (ii) personnel whose functions are primarily information technology in nature have access to such copies only as reasonably necessary for the performance of their information technology duties (e.g., for purposes of system recovery); *provided, further, however*, that Recipient and its Representatives shall continue to be bound by the terms and conditions of this Agreement with respect to any such retained Confidential Information.

**No Solicitation.** In order to enhance the confidentiality and non-use provisions of this Agreement and to protect each Party's intellectual property, during the Term and for six (6) months after its expiration or termination neither Client nor any of its Representatives shall solicit or attempt to solicit, directly or indirectly, any employee, advisor, contractor, or consultant of PVERIFY to terminate his, her, or its relationship with PVERIFY in order to become an employee, advisor, contractor, or consultant of or to any other person or entity; provided that a general advertisement shall in no event be deemed to be a breach of this Section.

**Other Rights.** Client agrees and understands that this Section 9 (Confidential Information) supplements, and does not supersede, any rights PVERIFY may have in law or equity with respect to protecting trade secrets or other confidential or proprietary information.

## INTELLECTUAL PROPERTY

### Background IP.

(a) Client Background IP. Except as otherwise provided herein, Client hereby does have and shall maintain, as between Client and PVERIFY, full and exclusive ownership of all Client Proprietary Content, Client Solution and Client Marketing Information (collectively, "**Client Background IP**").

(b) PVERIFY Background IP. PVERIFY hereby does have and shall maintain, as between Client and PVERIFY, full and exclusive ownership of all intellectual property owned or acquired by PVERIFY existing prior to commencement of or outside this Agreement, even if such are utilized by Client hereunder (collectively, "**PVERIFY Background IP**").

**Foreground IP.** All right, title, and interest in all intellectual property conceived, developed, or reduced to practice in the course of this Agreement by Client or PVERIFY or any of their respective employees, Representatives, or agents, or those of such Party's affiliates (collectively, "**Related Parties**"), individually or jointly, including all inventions, discoveries, results, research tools, data, information, drawings, models, designs, algorithms, methods, documents, and fixed works resulting from or related to the activities performed by any of them under this Agreement or any Order Form (collectively, "**Foreground IP**"), hereby do and shall belong exclusively to PVERIFY and, to the extent that by operation of law or otherwise such Foreground IP is not owned by PVERIFY, Client hereby irrevocably assigns, sells, conveys, transfers, and agrees to deliver to PVERIFY all right, title, and interest in all Foreground IP that Client may have acquired or may acquire by operation of law or otherwise, including the ownership of, or if applicable copyright in, the Foreground IP. PVERIFY Background IP and Foreground IP are referred to as, collectively, "**PVERIFY IP**." Client agrees to give PVERIFY or its designees all assistance reasonably requested to perfect such rights. Client represents and warrants that all Client personnel, with respect to their work under this Agreement, have executed or will execute agreements to effect the assignment of Foreground IP to PVERIFY as the sole owner of all right, title, and interest in, to and under any and all inventions and discoveries, whether or not patentable, made during such work. For the avoidance of doubt and without limiting the generality of the foregoing, PVERIFY shall retain all rights, title, and interest in the Licensed Technology and whether made by either Party or jointly, any modifications,

improvements, configurations or customizations made thereto, and any upgrades, updates or documentation provided to Client.

**Further Assurances.** Client hereby agrees to cause each of its Related Parties to grant, convey and assign to PVERIFY, by execution of separate instruments of assignment, all of their respective worldwide right, title, and interest in and to any Foreground IP as is necessary for PVERIFY to fulfill its responsibilities under this Agreement. Client agrees to make available to PVERIFY or such persons as it designates for interviews and/or testimony to assist in good faith with further prosecution, maintenance, or litigation with respect to intellectual property, including the signing of related documents. Any actual and reasonable out-of-pocket expenses associated with such assistance shall be borne by PVERIFY, expressly excluding the value of the time of current Client employees giving assistance; *provided, however*, that in the case of assistance with litigation, the Parties shall agree on a case-by-case basis on compensation, if any, for the value of the time of such employees as reasonably required in connection with such litigation.

**Ownership.** Client hereby irrevocably transfers and assigns to PVERIFY any and all of Client's right, title, and interest in and to all Foreground IP. Foreground IP is hereby the sole property of PVERIFY, and PVERIFY has the sole right to determine its treatment. Client represents, warrants, and covenants to: (a) promptly disclose in writing to PVERIFY all Foreground IP; (b) cooperatively assist PVERIFY in applying for, and execute any applications and/or assignments useful or necessary to obtain PVERIFY any patent, copyright, trademark, or other protection for Foreground IP in PVERIFY's name as PVERIFY deems appropriate; and (c) otherwise treat all Foreground IP as Confidential Information of PVERIFY.

**Feedback.** If Client provides suggested or recommended changes, including new features or functionality relating thereto, or any ideas, comments, recommendations, suggestions, questions, or the like with respect to PVERIFY's products and/or services (collectively, "**Feedback**"), PVERIFY will have the full, unencumbered right, without any obligation to compensate or reimburse Client, to incorporate such Feedback in its products or services, or otherwise modify, develop, or enhance its products or services or create new products or services based on such Feedback, and to fully develop, commercialize and exploit such resulting products and services irrespective of any other obligation or limitation governing such Feedback. To the extent Client has any intellectual property rights contained in the Feedback, Client hereby irrevocably assigns all right, title and interest in, and PVERIFY is free to use without any attribution or compensation to any party, any ideas, know-how, concepts, techniques, or intellectual property rights. For the avoidance of doubt, this Section does not require PVERIFY to use any Feedback.

**Client Modifications.** Client shall not modify, change, disable, or otherwise alter any aspect of the Licensed Technology in any manner (a "**Client Modification**"), without PVERIFY's express prior written consent. As appropriate with respect to any such Client Modification, PVERIFY will provide advance written notice to, and seek certification from, Surescripts.

**Negative Covenant.** Client acknowledges PVERIFY's exclusive rights in the Licensed Technology, that the Licensed Technology is unique and original to PVERIFY, and that PVERIFY is the owner thereof. Unless otherwise permitted by law, Client shall not, at any time during or after the Term, dispute or contest, directly or indirectly, PVERIFY IP, including PVERIFY's exclusive right and title to the Licensed Technology and to any modifications, improvements, configurations or customizations made thereto, and any upgrades, updates or documentation. Client shall not dispute or contest, directly or indirectly, the validity of any PVERIFY IP. If Client does dispute or contest such intellectual property rights, in addition to any other rights and remedies PVERIFY may have, PVERIFY may terminate this Agreement and all licenses granted hereunder.

**Indemnification.** By PVERIFY. PVERIFY will indemnify, defend and hold harmless Client from all damages, losses, costs and expenses (collectively "**Damages**") required to be paid by Client to an unaffiliated third party as a result of any claim, demand, suit or action (each a "**Claim**") by such unaffiliated third party alleging that Client's use of the Licensed Technology infringes the intellectual property rights of such third party, except that PVERIFY will have no indemnification obligation with respect to any infringement resulting from the combination of the Licensed Technology with other products or services not provided

by PVERIFY or resulting from Client misuse of the Licensed Technology. If the Licensed Technology is, or in PVERIFY's determination is likely to be, subject to any such Claim regarding intellectual property rights, or if Client's or any Client user's use of the Licensed Technology is enjoined or threatened to be enjoined, PVERIFY may, at its option and as its sole remedy (a) obtain the right for Client or such Client user(s) to continue to use the Licensed Technology materially as contemplated by this Agreement, (b) modify or replace the Licensed Technology so as to make it non-infringing, or (c) if neither (a) nor (b) is commercially feasible, terminate this Agreement or Order Form with respect to all or the affected part of the Licensed Technology, in which event Client shall immediately cease use of the Licensed Technology or affected part thereof and shall be entitled to a pro rata refund of the fees attributable to the portion of the then-current Order Form Subscription Term, as applicable, remaining immediately prior to such termination.

By Client. Client will indemnify, defend and hold harmless PVERIFY from all Damages required to be paid by PVERIFY as a result of (a) any Claim that arises out of any use of the Licensed Technology other than as expressly provided under this Agreement, or (b) as a result of Client's breach of its obligations under this Agreement or the Business Associate Agreement or Sub-Business Associate Agreement between the Parties, whichever applies.

Procedures. If either Party intends to claim indemnification hereunder with respect to Damages arising from a Claim, then such Party (the "**Indemnified Party**") shall promptly notify the other Party (the "**Indemnifying Party**") in writing of such Claim after the Indemnified Party becomes aware thereof, and the Indemnifying Party shall assume the defense of such Claim and shall have the sole right to control the defense and settlement of such Claim. The Indemnifying Party shall have no obligation to indemnify the Indemnified Party for any Damages paid in settlement of any Claim if such settlement is effected without the consent of the Indemnifying Party. The Indemnified Party's delay in delivering prompt written notice to the Indemnifying Party after becoming aware of such Claim shall relieve the Indemnifying Party of liability under this Section 10.8 to the extent that such failure increases the Indemnifying Party's liability hereunder. The Indemnified Party shall cooperate fully with the Indemnifying Party and its legal Representatives in the investigation and defense of any matter covered by this indemnification, and the Indemnified Party may engage counsel to represent it at its sole cost and expense in connection therewith.

## **REMEDIES, INDEMNITIES AND LIABILITIES:**

The Remedies set forth in this agreement constitute the sole and exclusive remedies for Client at law and in equity. With the exception of fraud, gross negligence, willful misconduct and indemnification obligations, PVERIFY's, and its' licensors and vendors, as applicable, maximum liability for the damages to Client, from any cause whatsoever, and regardless of the form of action, whether in contract or in tort, including negligence, will be limited to the lesser of: the total amount payable for the Services during the month before the cause of action arose, or the damages incurred. With respect to indemnification obligations under this Agreement, with the exception of fraud, gross negligence or willful misconduct, in no event shall PVERIFY's aggregate liability exceed the applicable limits under PVERIFY's then current insurance policies.

Each party shall indemnify and hold the other party harmless from any and all third party claims, demands, suits, actions, judgments, damages, losses and costs including court costs and reasonable attorney fees (collectively, the "Third Party Claims"), to the extent such Third Party Claims arise out of the negligent acts or omissions of the indemnifying party. With the exception of fraud, gross negligence, willful misconduct and indemnification obligations, in no event shall either party, its licensors, suppliers and/or subcontractors be liable to the other party for any incidental, consequential, indirect or special damages, including, without limitation, damages for loss of revenue or profits, cost of capital, claims of Clients for service interruptions or failure of supply, and costs and expenses incurred in connection with labor, overhead, transportation, installation, or removal of equipment or programming or substitute facilities or supply resources, even if such party has been advised of the possibility of such damages. The obligations under this section shall survive termination of this agreement.

*THE STATE OR FEDERAL GOVERNMENT, OR COMMERCIAL PAYOR'S RECORDS ARE THE FINAL AUTHORITY ON ELIGIBILITY, BENEFITS OR OTHER DATA: VERIFICATION BY PVERIFY OR OTHER SERVICE DOES NOT CONSTITUTE A GUARANTEE OF PAYMENT TO CLIENT BY SUCH THIRD-PARTY PAYOR. PVERIFY DOES NOT GUARANTEE THE ACCURACY OR COMPLETENESS OF THE INFORMATION RECEIVED; AND THE INFORMATION IS PROVIDED "AS IS" AND MAY HAVE BEEN COLLECTED FROM VARIOUS SOURCES, INCLUDING THIRD PARTIES.*

#### **HIPAA REQUIREMENTS:**

Client may send information under the Agreement in non-standard HIPAA formats to PVERIFY and PVERIFY will translate such information to standard HIPAA formats in accordance with the Agreement and the Federal Transaction Regulations (as defined in the HIPAA Business Agreement). The parties agree to be bound by the Business Associate Agreement or Sub-Business Agreement, whichever applies, separately executed by the parties and incorporated herein by reference.

#### **CLIENT ADMINISTRATOR SECURITY PROTOCOL**

As part of the Enrollment Process, Client agrees to designate a primary Client Security Administrator(s) to ensure access to PVERIFY and protected health information is limited to users that have been verified as legally and contractually bound affiliates of Client. Such person or persons shall be referred to as the Client Administrator. Each such person must comply with the implementation and administration of the foregoing.

- (a) Client Administrator, by adding user, is verifying user as a legally and properly bound affiliate with need to access protected health information prior to granting access and is warranting that HIPAA Security Standards governing access and use of PHI is maintained by all users.
- (b) Client Administrator will not utilize generic login names such as "front office" or "billing dept".
- (c) Client Administrator will provide each authorized individual user with a specific and unique login name and password.
- (d) Client Administrator will transfer new login names and passwords to its employees in a secure manner that ensures that the login name and password remains restricted to the use of the intended specific and unique end user.
- (e) Client Administrator will advise and require all users to take precautionary measures to prevent their login names and passwords being revealed to others.
- (f) Client Administrator will review its login name and password list on a monthly basis and immediately delete all employees listed who no longer require access to pVerify.

#### **CONFIRMATION OF THE RULES OF BEHAVIOR:**

##### CMS RULES OF BEHAVIOR

PVERIFY is committed to maintaining the integrity and security of healthcare data in accordance with applicable laws and regulations, Provisions of the Privacy Act of 1974, and the Health Insurance Portability and Accountability Act (HIPAA) of 1996. This contract requires confirmation of your commitment to abiding the CMS Rules of Behavior while obtaining, disseminating, and using eligibility data for all transactions run within pVerify. Use of pVerify services for marketing purposes is prohibited.

Initial: \_\_\_\_\_

USE OF IDENTITY VERIFICATION PRODUCTS:

By initialing below, customer and, as applicable, any downstream client(s) of customer, is acknowledging that authorized use of pVerify's Insurance Discovery, Patient Demographic Validation, and MBI Look-Up (including Identity Verification) requires an established provider-patient relationship, as can be evidenced, upon audit, by a patient's signature on an Authorization/Consent for Care, Assignment of Benefits, or similar patient engagement paperwork.

Initial: \_\_\_\_\_

**MISCELLANEOUS:**

**15.1 Assigns and Affiliates.** This Agreement shall be binding upon and shall insure to the benefit of the successors and assigns of the parties hereto. Where Client has more than one facility, location and/or affiliate organization, the parties hereby acknowledge and agree that such additional facilities, locations and/or affiliate organizations may need to execute an addendum to this Agreement in order to be covered thereby. Any subsequent facilities or affiliated organizations shall be added to and covered under this agreement via an Addendum.

**15.2 Discontinuation of Services.** PVERIFY reserves the right, without penalty or liability, to withdraw or discontinue any service, without penalty or liability, from a Client who misuses the Services. PVERIFY reserves the right to process test system inquiries on Client's behalf in order to monitor service performance and quality assurance.

**15.3 Independent Contractor.** PVERIFY is an independent contractor and nothing in this Agreement shall be construed to create a partnership, joint venture or employer-employee relationship. This Agreement represents the complete and exclusive agreement between the parties with regard to the subject matter hereof and supersedes all prior oral and written communication between the parties. No provision of the Agreement shall be modified unless in writing and signed by an authorized representative of PVERIFY.

**Flow Downs.** Client acknowledges and agrees that certain payers, fiscal intermediaries, government entities, and other third-party information suppliers may require compliance with obligations involving confidentiality, liability, and scope of use, as a condition of accessing their information. In the event such compliance obligations are directed to PVERIFY then PVERIFY will convey such written obligations to Client as a requirement to access data. This entire section shall survive the termination of this Agreement.

**Notices.** All notices under this Agreement must be in writing and in the English language, and shall be deemed effectively given (a) upon personal delivery when hand-delivered to the Party to be notified; (b) three (3) days after having been sent by registered or certified mail, return receipt requested, postage prepaid; (c) one (1) business day after deposit with a nationally recognized overnight courier, with written verification of receipt or (d) on the day sent via electronic mail (email) if sent before 5pm EST or, if after 5pm EST, the following business day. Notices must be sent to the addresses set forth on the Cover Page or via email to [contracts@dosespot.com](mailto:contracts@dosespot.com) for PVERIFY or [x] for client. Either Party may amend its address upon written notice to the other. A copy of every notice to PVERIFY must be emailed to [contracts@dosespot.com](mailto:contracts@dosespot.com) concurrently for notice sent by any other means to be valid. Email to Client is not necessary for notice by other means to be valid.

**Assignment.** This Agreement may not be assigned by Client without the express written consent of PVERIFY; provided, however that Client may assign this Agreement to a third party purchasing all or substantially all of Client's equity interests or assets via acquisition or merger without PVERIFY's written consent provided that Client provides written notice of such acquisition or merger to

PVERIFY as soon as a reasonably practical in anticipation of or upon the Closing of such acquisition or merger. Any purported assignment or transfer or delegation of rights or obligations under this Agreement in violation of this Section will be null and void. Subject to the foregoing, this Agreement will be binding upon each Party and its successors and permitted assigns.

**Governing Law and Venue.** This Agreement shall be governed by and construed in accordance with the law of the Commonwealth of Massachusetts without regard to anything that would require the application of the law of any other jurisdiction. Any and all disputes hereunder, other than PVERIFY'S claims for (a) nonpayment of User Fees, Certification Fees or other fees and charges due under this Agreement; (b) breach of intellectual property provisions; (c) breach of data privacy / HIPAA; or (d) violation of Applicable Law shall be brought within one (1) year of the date on which the Party becomes aware of any such action or claim or shall otherwise be fully and completely waived. Any and all disputes arising out of or relating to this Agreement shall be finally resolved by arbitration in accordance with JAMS Arbitration Rules then currently in effect, by one independent arbitrator. If the Parties fail to agree on the arbitrator within fifteen (15) days of commencement of the arbitration, then the Parties will allow JAMS to select the neutral arbitrator pursuant to its rules then currently in effect. The arbitration shall be governed by the Federal Arbitration Act, 9 U.S.C., §§1 et seq. and judgment upon the award rendered by the arbitrator may be entered by any court having jurisdiction thereof. The place of arbitration shall be Boston, Massachusetts. Each Party is required to continue to perform its obligations under this Agreement pending final resolution of any disputes arising out of or relating to this Agreement, unless to do so would be impossible or impracticable under the circumstances. Nothing in this Agreement shall prohibit a Party from instituting litigation to enforce any final determination by the arbitrator in any state or federal court in the Commonwealth of Massachusetts.

**Injunctive and Equitable Relief.** Notwithstanding Section 15.4, nothing in this Agreement is intended to prevent PVERIFY from obtaining equitable or injunctive relief in any court of competent jurisdiction. Client represents and agrees that, without limitation, the following would cause irreparable harm to PVERIFY, monetary damages alone would be inadequate as a remedy, the balance of hardships weighs in favor of PVERIFY, and granting equitable or injunctive relief therefore would be appropriate: any breach or anticipatory breach of Client's obligations to PVERIFY under this Agreement or any agreement with respect to (a) confidentiality and non-use of PVERIFY's Confidential Information; (b) non-solicitation; (c) non-disparagement; and (d) intellectual property, including infringement, inducement, misappropriation, and misuse.

**Remedies.** Except as expressly stated herein: (a) each Party's rights and remedies shall be cumulative, not alternative; (b) if any action is necessary to enforce the terms of this Agreement, the substantially prevailing Party will be entitled to reasonable attorneys' fees, costs, and expenses in addition to any other relief to which such prevailing Party may be entitled to attorneys' and expert witness fees; and (c) PVERIFY will have the right to enforce this Agreement and any of its provisions by injunction, specific performance or other equitable relief without prejudice to any other rights and remedies that PVERIFY may have for a breach of this Agreement.

**Interpretation.** For purposes of this Agreement: (a) titles and headings are for convenience of reference only and shall not affect the meaning or interpretation of this Agreement; (b) the words "include(s)," "including," "for example," "e.g.," "etc.," "such as," "for instance," and "in particular" shall be not construed to exclude any other thing not referred to or described and shall be deemed to be followed by the words "without limitation"; provided that when combined with "only" (such as "include(s) only", "only including") such words shall be construed with limitation; (c) "A or B" means "A or B or both"; "either A or B" means "A or B, but not both"; and "A and B" means "both A and B"; (d) the definition given for any term shall apply equally to both the singular and plural forms of the term defined; and (e) unless the context otherwise requires, (1) references to a Section refer to a Section of these Terms of Service; (2) references to an agreement, instrument or other document (including this Agreement) mean such agreement, instrument or other document as amended, supplemented and modified from time to time to the extent permitted by the provisions thereof and (3) references to a statute means such statute as amended from time to time and includes any

successor legislation thereto and any rules and regulations promulgated thereunder.

**Severability.** If any phrase or provision hereof is held by a court of competent jurisdiction to be invalid, unlawful, void, or unenforceable, to any extent, the remainder of this Agreement shall remain in full force and effect and such provision shall be deemed modified to be valid and enforceable to the maximum extent permitted by law.

**Entire Agreement.** This Agreement states the entire agreement between the Parties relating to its subject matter and supersedes all prior and contemporaneous agreements, understandings, and communications, whether written or oral, between the Parties relating thereto, excluding (a) the Business Associate Agreement or Sub-Business Associate Agreement between the Parties, whichever applies, and (b) except as expressly set forth herein, any Non-Disclosure Agreement (the "NDA") between the Parties with respect to information disclosed prior to the Agreement Date under such NDA.

**Waiver; Amendment.** All waivers must be in writing and signed by an authorized representative of the Party to be charged. The failure of a Party to require or enforce any provision or right hereunder, or a Party's waiver of any breach of this Agreement, shall not act as a bar to subsequent requirement or enforcement of such provision or right or be deemed a waiver of any other breach.

**Due Authority.** Each person signing this Agreement represents and warrants that he or she is duly authorized and has legal capacity to execute and deliver this Agreement. Each Party represents and warrants to the other that the execution and delivery of this Agreement and the performance of such Party's obligations hereunder have been duly authorized and that this Agreement is a valid and legal agreement binding on such Party and enforceable in accordance with its terms.

**14.13 Counterparts.** This Agreement may be executed in any number of counterparts and transmitted by PDF or other electronic format, each of which when so executed and duly delivered will be deemed an original for all purposes, and all of which together shall constitute one and the same agreement.

***Remainder of page deliberately left blank.***