



**groupSPARK Reseller Program
Terms and Conditions**

Attachment A

End-User Terms and Conditions of Service

These End-User Terms and Conditions of Service (the “End-User Terms and Conditions”) apply to every Reseller Order submitted to Provider by any one or more authorized groupSPARK Resellers (each such reseller, a “Reseller”) on End-User Customer’s behalf.

All capitalized terms used in the End-User Terms and Conditions have the meanings ascribed to them in the groupSPARK Reseller Terms and Conditions or are defined herein.

Each End-User Customer shall enter into an agreement containing these End-User Terms and Conditions, as they presently exist and as Provider may revise them hereafter, or equivalent terms as a condition precedent to obtaining access to or using any one or more Services. These End-User Terms and Conditions will remain in effect with respect to each End-User Customer while any one or more Reseller Orders for that End-User Customer remain in effect. Provider may revise these End-User Terms and Conditions at any time. End-User Customer’s use of any one or more Services after each revision constitutes its agreement to these End-User Terms and Conditions as revised.

A. End-User Customer’s Obligations. End-User Customer shall, at all times while it has access to, or the use of, any one or more of Provider’s Services:

1. Comply with Provider’s Acceptable Use Policy (the “AUP”), as it exists on the Effective Date and as it may be revised during the Term. The current version of Provider’s AUP is posted at www.groupspark.com/acceptable-use-policy.html

2. Comply with Provider’s Privacy Policy (the “Privacy Policy”), as it exists on the Effective Date and as it may be revised during the Term. The current version of Provider’s Privacy Policy is posted at www.groupspark.com/Privacy-Policy.html

3. Cooperate with Provider’s efforts to provide, support and administer Services as it may reasonably request. Without limiting the generality of the foregoing, in addition to complying with Provider’s Privacy Policy, End-User Customer shall not use any personal data in conjunction with any one or more Services: (a) without reasonable prior notice to Reseller; and (b) until End-User Customer, Reseller and Provider have entered into an appropriate agreements to use that personal data in conjunction with Provider’s Services in compliance with all applicable laws and regulations. As an example, not by way of limitation, End-User Customer shall not use any Protected Health Information (PHI) as that term is defined in 45 C.F.R. § 160.103 in conjunction with any one or more Services, except as permitted by Business Associate Agreements and Subcontractor Business Associate Agreements, entered into between and among End-User Customer, Reseller and Provider, as required by HIPAA and its implementing regulations; and

4. Utilize hardware, software, services, data and facilities with any one or more Services solely in compliance with: (a) Provider's minimum technical specifications in effect on the earliest effective date of any Reseller Order specifying those Services and as revised thereafter during the Term of any one or more of those Reseller Orders. Provider's minimum technical specifications are posted at www.groupspark.com/minimum-specifications.html; (b) each of the agreements, permissions and authorizations that govern End-User Customer's use of the hardware, software, products, services, data and facilities it uses with any one or more Services, including all end-user agreements required by Provider's vendors and licensors; and (c) applicable law and regulations.

B. Rights of Access; Authorization; No Reverse Engineering; Suspension and Termination of Services.

1. System Access. Provider and End-User Customer (as applicable, the "Authorizing Party") each hereby authorize the other (the "Authorized Party"), while one or more Reseller Orders for that End-User Customer are in effect, to access and use only those portions of the Authorizing Party's systems that are reasonably required by the Authorized Party: (a) (i) in the case of End-User Customer, to access and use, under these End-User Terms and Conditions, the Services specified in each authorized Reseller Order submitted for that End-User Customer; and (ii) in the case of Provider, to: (a) provide, support, administer, or manage any one or more of its Services; and (b) exercise its rights and discharge its obligations under these End-User Terms and Conditions; and (c) comply with applicable law.

2. End-User Customer's rights of access are non-exclusive, non-transferable, and may be used solely for its internal business purposes. Without limiting the generality of the foregoing, End-User Customer shall not traffic in, sell, assign, transfer, or otherwise make available to, or knowingly permit any unaffiliated person or entity to access or use, End-User's Customer's access to or use of any of Provider's products, services, facilities, or resources, including any of the Services.

2. No Reverse Engineering; No Other Rights of Access or Use; No Transfers. End-User Customer shall not reverse engineer, disassemble or decompile any one or more of Provider's products, services, resources, or any features, functions, or components of any of the foregoing. End-User Customer acknowledges and agrees that: (a) it has neither any rights, title or interest in or to, nor any license or right to access or use any of Provider's products, services, systems, resources, or data other than the rights of access and use specifically granted in these End-User Terms and Conditions; (b) These End-User Terms and Conditions do not transfer to End-User Customer any rights, title or interest in or to the present or any future version of, or successor to, any product, service, systems, resources, methodology, data or other intellectual property, data, or resource owned by Provider or its vendors or licensors.

3. Suspension of Services. (i) Non-Payment. Provider may, in the event that Reseller does not pay Provider for services on End-User Customer's behalf, suspend the operation of any one or more Services by notifying End-User Customer, in writing and at least five (5) days in advance, that: (a) one or more Services will be suspended for non-payment; and (b) the last date on which Services will be provided (each such notice, a "Notice of Suspension"). Once a Notice of Suspension has been issued to End-User Customer, Provider may, without further notice, suspend any one or more Services in response to Reseller's failure

to pay or dispute any invoice for those Services as these End-User Terms and Conditions and that Notice of Suspension permit;

(ii) Operational Risk. Provider may suspend any one or more of the Services immediately, if End-User Customer, any person or entity acting on End-User Customer's behalf, or any person or entity who End-User Customer permits to access its systems, creates a substantial risk to Provider's continuing ability to provide services to its End-User Customers as determined in the exercise of Provider's reasonable business judgment (any such risk, "Operational Risk"). Operational Risk includes any risk created by End-User Customer's failure to use appropriate physical, technical or administrative safeguards to control access to or use of any one or more Services through End-User Customer's systems or facilities; and

(iii) Provider shall have no liability for any loss, damage, or disruption that may result from suspensions of any one or more Services pursuant to this provision.

4. Termination of Services by Provider. Provider may terminate any one or more Services: (i) if End-User Customer breaches any one or more material provisions of any Reseller Order or these End-User Terms and Conditions (any such breach, a "Material Breach") and End-User Customer fails to cure that breach within thirty (30) days of receipt of a written notice of breach from Reseller or Provider.

5. Effect of Termination or Expiration.

a. Upon the termination or expiration of any Reseller Order, all of End-User's rights of access to or use granted under these End-User Terms shall cease.

b. End-User Customer shall, with respect to each terminated or expired Reseller Order: (i) cease any use of, and as Provider may then request, return or destroy any and all physical files, documents, or materials that embody or reflect Provider's Confidential Information concerning that Reseller Order that may then be in the End-User Customer's possession, custody or control; and (ii) overwrite any and all of Provider's Confidential Information in electronic form concerning that Reseller Order that may then be in End-User Customer's possession, custody or control; (iii) delete any and all software concerning that Reseller Order from the End-User Customer's systems that End-User Customer obtained from or on behalf of Provider; (iv) deleting any and all other Provider's intellectual property concerning that Reseller Order from its systems; and (v) upon Provider's request, provide it with a written statement, that End-User Customer has complied with the foregoing obligations, signed by its duly authorized agent.

C. Representations and Warranties; Disclaimer; Limitation of Liability.

1. End-User Customer represents that: (a) the person signing each Reseller Order on its behalf is its duly authorized agent, who is specifically authorized to enter into that Reseller Order on its behalf; (b) it is duly organized and validly existing under the laws of the state of its incorporation or formation; (c) it is permitted by applicable laws and regulations to enter into each Reseller Order; (d) it is, in all respects, able to perform fully under each Reseller Order; (e) it will perform under each Reseller Order in compliance with all applicable laws and regulations; and (f) upon execution and delivery, each Reseller Order shall constitute its valid and binding obligation, enforceable in accordance with its terms.

2. EXCEPT AS EXPRESSLY SET FORTH IN THESE END-USER TERMS AND CONDITIONS, EACH OF THE SERVICES IS PROVIDED "AS IS" AND "AS AVAILABLE." EXCEPT AS EXPRESSLY SET FORTH IN THE END-USER TERMS AND CONDITIONS, PROVIDER MAKES NO REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, ORAL OR WRITTEN, WITH RESPECT TO ANY OF THE SERVICES. ALL SUCH WARRANTIES, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT, ARE EACH HEREBY EXPRESSLY DISCLAIMED. EXCEPT AS EXPRESSLY SET FORTH IN THESE END-USER TERMS AND CONDITIONS, PROVIDER DOES NOT REPRESENT OR WARRANT THAT ANY OF THE SERVICES WILL OPERATE ERROR-FREE, WITHOUT INTERRUPTION, AS END-USER CUSTOMER EXPECTS, OR THAT ANY OF THE SERVICES WILL PERMIT END-USER CUSTOMER TO ACCOMPLISH ITS OBJECTIVES, COMPLY WITH ITS REGULATORY OBLIGATIONS, OR PREVENT OR CONTROL ANY RISK OF DEATH, PHYSICAL INJURY, LOSS OF OR DAMAGE TO PROPERTY OR DATA THAT MAY OTHERWISE BE ASSOCIATED WITH END-USER CUSTOMER'S BUSINESS.

3. (a) IN NO EVENT WILL PROVIDER, ITS AFFILIATES, OR THEIR RESPECTIVE INVESTORS, DIRECTORS, OFFICERS, EMPLOYEES, VENDORS, AGENTS, OR REPRESENTATIVES BE LIABLE TO END-USER CUSTOMER, ON ANY THEORY, FOR ANY INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE, EXEMPLARY, OR CONSEQUENTIAL DAMAGES, EVEN IF PROVIDER HAS BEEN INFORMED OF THE POSSIBILITY OF SUCH DAMAGES.

(b) IN NO EVENT WILL PROVIDER, ITS CORPORATE PARENT AFFILIATES, OR THEIR RESPECTIVE INVESTORS, DIRECTORS, OFFICERS, EMPLOYEES, VENDORS, AGENTS, OR REPRESENTATIVES BE LIABLE TO END-USER CUSTOMER FOR DIRECT DAMAGES, ON ANY THEORY, IN AN AMOUNT EXCEEDING THE AGGREGATE AMOUNT PAID TO PROVIDER BY RESELLER ON END-USER CUSTOMER'S BEHALF IN THE SIX (6) MONTHS IMMEDIATELY PRIOR TO THE DATE OF OCCURRENCE OF THE EVENT OR CIRCUMSTANCE THAT GAVE RISE TO LIABILITY.

(c) Provider will have no liability whatsoever for any damages, losses, or other expenses that End-User Customer incurs that in any material respect, arises from or relates to: (i) any use, modification, or attempted use or modification of any one or more of the Services by, permitted by, or on behalf of, End-User Customer that is not permitted by these End-User Terms and Conditions.

D. Indemnification. End-User Customer shall indemnify, hold harmless, and defend Provider from and against any and all third-party claims arising from or relating to: (a) each use of one or more of the Services in a manner that is not permitted by these End-User Terms and Conditions; (b) End-User Customer's use with one or more of the Services of intellectual property, personal information, confidential information or other data in a manner that violates the claimant's intellectual property, privacy, publicity contractual, proprietary or other legal rights or interests; (c) Provider's reasonable compliance with each instruction given to it by End-User Customer or by Reseller on End-User Customer's behalf, including instructions to acquire equipment or to store or process data on End-User Customer's behalf; (d) Provider's reasonable reliance on information or instructions provided by End-User Customer or by Reseller on End-User Customer's behalf; and (e) to the extent not included within one or more of the foregoing, any breach of one or more of End-User Customer's obligations, representations or warranties made in these End-User Terms and Conditions or in any one or more Reseller Orders.

E. Miscellaneous.

1. No Implied Waiver; Cumulative Rights & Remedies. No failure or delay to exercise any right, power, or privilege under these End-User Terms and Conditions, Reseller Orders, or other documents executed pursuant to these End-User Terms and Conditions by either party shall operate as a waiver by that party, nor shall any individual or limited exercise of any such right, power, or privilege preclude any other or further exercise of that or any other right, power, or privilege. All rights, powers, and privileges granted to either party in these End-User Terms and Conditions shall be in addition to, and may be exercised without prejudice to, any other claims, rights, remedies, and powers to which that party may then be entitled under these End-User Terms and Conditions or otherwise.

2. Limitation of Claims. No action, other than an action for breach of End-User Customer's payment obligations may be brought under any Reseller Order or these End-User Terms and Conditions more than one (1) year after the cause of action has accrued.

3. Force Majeure. Provider shall not be responsible for failure to perform any obligation under any one or more Reseller Orders or these End-User Terms and Conditions, other than its payment obligations, to the extent that its failure results from a cause beyond its reasonable control, including earthquakes, floods, fires, storms or other natural disasters, criminal activity, the failure of electrical service, internet access, or other utilities required to provide any one or more of the Services, failure to comply with environmental requirements, unavailability of equipment or hardware, lack of access to End-User Customer's premises, systems, or data, or End-User Customer's unforeseen acts, including its failure to comply with the AUP or these End-User Terms and Conditions or to otherwise cooperate with Provider as it reasonably requests.

4. Provider is an intended third-party beneficiary of the agreement for Services between Reseller and its End-User Customer to the extent of Provider's rights and privileges under these End-User Terms and Conditions, and shall have the right to enforce its rights against End-User Customer in any manner permitted by law.

5. Any and all sections of these End-User Terms and Conditions that by their terms operate after the termination or expiration of any one or more Reseller Orders, including, Sections B through E, inclusive and all subsections thereof, shall each survive the expiration or termination of any one or more Reseller Orders.