

Medicat Software as a Service End User License Agreement

This Software as a Service End User License Agreement (“Agreement” or “SaaS Agreement”) is entered into between, Virginia Military Institute (“Client”) located at 448 Institute Hill, Lexington, VA 24450, and Medicat, LLC (“Medicat”), 303 Perimeter Center N., STE 450, Atlanta, GA 30346.

These terms and conditions apply to the provision of the products or services identified on the Order Form by Medicat to the entity identified in the Order Form (“**Client**”). An “**Order Form**” means any order for the provision of products or services signed by Client. These terms are incorporated into the Order Form and together, along with any addendums, form the “**Agreement**.” Medicat and Client are referred to in this Agreement each as a “**party**” and together as the “**parties**.”

1. **Service.** Subject to the terms of this Agreement, Medicat grants Client a limited, non-exclusive, non-transferable, right and license, without the right to sublicense, to access Medicat’s proprietary software offering(s) (together with any other products and services identified in the Order Form, the “**Service**”). All rights in and to the Service not expressly granted to Client in this Agreement are reserved by Medicat. Medicat shall: (a) deploy all updates to the Service to Client that Medicat provides to its Clients generally for no additional charge; and (b) provide support (“**Support**”) pursuant to the terms described on the Order Form. For purposes of this Agreement, “**User**” means an individual who is authorized by the Client to use the Service and for whom Client has purchased a subscription.
2. **Client Restrictions.** Client shall not (and shall not permit Users to): (a) sell, resell, rent, lease, lend, sublicense, distribute, assign, timeshare, or otherwise transfer or provide access to the Service to any third party except as expressly authorized under this Agreement; (b) use or access the Service for competitive purposes; (c) copy, modify, adapt, or create derivative works from any feature, function, interface, or graphic in the Service; (d) remove or modify Medicat’s policies or proprietary markings displayed within the Service; (e) use, interfere with, disrupt or circumvent the integrity, security or performance of the Service, including by probing, scanning, or testing any Medicat system or network or its security or authentication measures; (f) store or transmit any malicious code; (g) permit direct or indirect access to or use of any Service or Client Data in a way that circumvents a contractual usage limit; (h) attempt to gain unauthorized access to the Service, its related systems or networks or Third-Party Services (as defined below);
3. **Client Responsibilities.** Acceptable Use Policy provided within the Service and available at <https://medicat.com/acceptable-use-policy> (the “**AUP**”). Client agrees to reasonably assist in connection with a User’s adherence to the AUP. Client further agrees to: (a)

maintain the confidentiality and security of passwords and abide by any access protocols or credential requirements set by Medicat; (b) obtain from Users any consents necessary under this Agreement or to allow Medicat to provide the Service; (c) use commercially reasonable efforts to prevent unauthorized access to or use of the Service; (d) notify Medicat promptly of any such unauthorized access or use of which it learns; and (e) cooperate reasonably in all respects with respect to implementation, access, support, and maintenance of the Service.

4. **Representations.** Each party represents that (a) it has the power and authority to validly enter into this Agreement, (b) this Agreement has been duly and validly authorized, executed and delivered by such party, (c) the execution and delivery of this Agreement does not violate or conflict with any other agreement, license, or obligation of such party, (d) it has not received or been offered any illegal or improper bribe, kickback, payment, gift, or thing of value from or on behalf of any employees or agents of the other party in connection with this Agreement, and (e) it is financially solvent and has the ability to perform its obligations hereunder.
5. **Medicat Warranties.** Medicat warrants that: (a) it shall implement reasonable administrative, technical, and physical safeguards in an effort to secure its facilities and systems from unauthorized access and to secure the Client Data; (b) the Service will substantially conform to the operational features detailed in the documentation that properly accompanies the Service, provided the Service is accessed and used as provided for therein. As Client's sole and exclusive remedy for Medicat's breach of the warranties set forth in this Section 5, Medicat shall correct the non-conforming Service at no additional charge to Client. EXCEPT AS EXPRESSLY PROVIDED IN THIS SECTION 5 AND TO THE MAXIMUM EXTENT OF THE LAW, MEDICAT AND ITS SUPPLIERS DISCLAIM ALL WARRANTIES, WHETHER WRITTEN, ORAL, EXPRESS, IMPLIED, OR STATUTORY, INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY, TITLE, NON-INFRINGEMENT, AND FITNESS FOR A PARTICULAR PURPOSE. WITHOUT LIMITING THE FOREGOING, MEDICAT DOES NOT WARRANT THE RESULTS OR OUTCOMES FROM USE OF THE SERVICE OR THAT THE SERVICE WILL BE UNINTERRUPTED OR ERROR-FREE. TO THE EXTENT THE FOREGOING DISCLAIMER IS EXPRESSLY PROHIBITED BY LAW, ANY AVAILABLE WARRANTY SHALL BE LIMITED TO THIRTY (30) DAYS AND TO THE SERVICE REMEDIES PROVIDED BY MEDICAT IN THIS SECTION 5.
6. **Fees.** As consideration for the subscription to the Service, Client shall pay all fees set forth in an Order Form ("**Fees**") annually in advance, thirty (30) days after receipt of an invoice or as otherwise agreed to in the Order Form. All Fees owed by Client are exclusive of, and Client shall pay all applicable sales, use, VAT, excise, withholding, and other taxes that

may be levied in connection with this Agreement. Medicat reserves the right (in addition to any other rights or remedies Medicat may have) to discontinue the Service and to suspend all Users' and Client's access to the Service if any Fees are overdue until such amounts are paid in full. Except as expressly set forth in this Agreement, all Fees are non-refundable.

7. **Service Standard.** Medicat will use commercially reasonable efforts to make each Service available with an annual uptime percentage of at least 99.9% ("**Service Commitment**") as outlined at <https://www.medicat.com/service-level-commitment> . Any days prior to Client's initial use of the Service will be deemed to have had 100% availability. Any unavailability used to calculate a prior service credit cannot be used for any future claims. The Service Commitment does not apply to any scheduled outages, standard maintenance windows, force majeure, and outages that result from any technology issue not originating from Medicat. Client's sole and exclusive remedy for breach of the Service Commitment in this Section 7 will be for Medicat to provide a credit as outlined at <https://medicat.com/service-level-commitment> ; on the condition that Client notifies Medicat in writing of such claim within thirty (30) days of becoming eligible for such claim.
8. **Compliance.** Each party will comply with all applicable laws and regulations with respect to its activities under this Agreement, including with respect to personally identifiable information from records that are subject to applicable privacy laws, including, but not limited to, the Family Educational Rights and Privacy Act, and the Health Insurance Portability and Accountability Act. Without limiting the generality of the foregoing, Client shall not make the Service available to any person or entity that: (a) is located in a country that is subject to a U.S. government embargo; or (b) is listed on any U.S. government list of prohibited or restricted parties. Client data stored within Medicat's hosted database, including Protected Health Information (as defined in Exhibit A), shall be considered the Client's property. Upon termination of this Agreement, at the Client's written request, Medicat agrees to deliver a copy of the Client data to the Client in a mutually agreeable electronic format at no additional charge to the Client.
9. **Data Use.** Client agrees that data derived from Medicat's provision of the Service or Client's use of the Service ("**Usage Data**") may be used by Medicat for the purposes of analysis, including statistical analysis, trend analysis, creation of data models, and creation of statistical rules. Such Usage Data will only be used in its aggregated or anonymized form and such results may be used by Medicat for any lawful purpose not otherwise excluded by this Agreement. As between the parties, Medicat owns the Usage Data. Notwithstanding anything contained in this Agreement to the contrary, Usage Data does not include Client Data or any information that identifies or can be reasonably used to

identify an individual person or Client.

10. **Third-Party Services.** Client may access third-party services, data or links through the use of the Service (collectively “**Third-Party Services**”). Medicat does not control Third-Party Services or make any representations or warranties with respect to Third-Party Services. In addition, Medicat is not responsible for Third-Party Services.

11. **Limitation of Liability.**

- a. EACH PARTY AND ITS SUPPLIERS SHALL NOT BE LIABLE TO THE OTHER PARTY FOR ANY INDIRECT, SPECIAL, EXEMPLARY, PUNITIVE, INCIDENTAL, OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR RELATED TO THIS AGREEMENT OR THE USE OR INABILITY TO USE THE SERVICE (INCLUDING, WITHOUT LIMITATION, COSTS OF DELAY, LOSS OR INACCURACY OF DATA, RECORDS OR INFORMATION, COST(S) OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES, AND ANY FAILURE OF DELIVERY OF THE SERVICE), EVEN IF THE OTHER PARTY HAS BEEN NOTIFIED OF THE LIKELIHOOD OF SUCH DAMAGES. EXCEPT FOR A PARTY’S INDEMNITY OBLIGATIONS IN SECTION 17.1, EACH PARTY’S CUMULATIVE MAXIMUM LIABILITY FOR DAMAGES ARISING OUT OF OR RELATED TO THIS AGREEMENT (WHETHER IN CONTRACT, TORT OR OTHERWISE) SHALL NOT EXCEED THE AMOUNT PAID BY THE CLIENT UNDER THIS AGREEMENT WITHIN THE TWELVE (12) MONTHS IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO LIABILITY.
- b. MEDICAT EXPRESSLY DISCLAIMS ANY AND ALL LIABILITY FOR ANY CLAIM FOR INJURIES OR DAMAGES RELATED TO THE USE OF THE LICENSED SOFTWARE FOR DIAGNOSIS AND TREATMENT PURPOSES.
- c. WITH RESPECT TO ELECTRONIC CLAIMS, MEDICAT SHALL NOT BE RESPONSIBLE FOR ANY ERRORS OR OMISSIONS IN ANY CLAIMS RECEIVED FROM CLIENT OR TRANSMITTED TO PAYERS UNLESS DIRECTLY CAUSED BY MEDICAT’S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT. MEDICAT SHALL NOT BE RESPONSIBLE FOR ANY UNAUTHORIZED OR OTHER IMPROPER TRANSMISSION BY OR ON BEHALF OF THE CLIENT.

12. **Confidentiality.** Each party acknowledges that it or any entity that directly, or indirectly through one or more intermediaries’ controls, is controlled by or is under common control with such party (an “**Affiliate**”) may disclose (in such capacity the “**Disclosing Party**”) Confidential Information to the other party or its Affiliates (in such capacity, the “**Receiving Party**”) in the performance of this Agreement. Accordingly, the Receiving

Party shall: (a) keep the Confidential Information disclosed by the other party confidential; (b) use Confidential Information only for purposes of fulfilling its obligations and exercising its rights hereunder; and (c) disclose such Confidential Information only to the Receiving Party's employees or Affiliates who have a need to know and only for the purposes of fulfilling this Agreement or to the extent required by law. As used herein, "**Confidential Information**" means any and all non-public, confidential and proprietary information, data, or know-how, including all Personal Information and information about the Disclosing Party's businesses, operations, finances, properties, employees, relationships with third parties, plans, trade secrets, and other intellectual property and all analyses, compilations, forecasts, studies, summaries, notes, reports, memoranda, interpretations, data, and other materials which contain or are generated from the Confidential Information, whether disclosed in writing, orally, electronically, or by other means, and whether or not identified as confidential. For the avoidance of doubt, any non-public aspect of the Service will be considered the Confidential Information of Mediat. Confidential Information shall not include information that: (i) is or becomes a matter of public knowledge through no fault of the Receiving Party; (ii) is rightfully received by the Receiving Party by a third party without a duty of confidentiality; (iii) is independently developed by the Receiving Party without the use of any Confidential Information of the Disclosing Party; or (iv) is identified by the Disclosing Party in writing as no longer confidential and proprietary. Notwithstanding the restrictions above, the Receiving Party may disclose the Confidential Information pursuant to law, regulation, subpoena or court orders, provided that the Receiving Party promptly notifies the Disclosing Party in writing prior to making any such disclosure to permit the Disclosing Party an opportunity to prevent disclosure or seek an appropriate remedy from the proper authority. The Receiving Party agrees to cooperate with the Disclosing Party in seeking such order or other remedy. The Receiving Party further agrees that if the Disclosing Party is not successful in precluding the requesting legal body from requiring the disclosure of the Confidential Information, it will furnish only that portion of the Confidential Information which is legally required (based on the advice of counsel) and will exercise all reasonable efforts to obtain reliable assurances that confidential treatment will be afforded the Confidential Information. Further, any information obtained by monitoring, reviewing, or recording is subject to review by law enforcement organizations in connection with investigation or prosecution of possible criminal or unlawful activity on the Service as well as to disclosures required by or under applicable law or related government agency actions. Mediat will also comply with all court orders or subpoenas involving requests for such information.

13. **Proprietary Rights.** As between Client and Mediat, the Mediat Intellectual Property is, and shall at all times remain the sole and exclusive property of Mediat. Mediat shall have the right, in its sole discretion, to modify the Mediat Intellectual Property. "**Mediat**

Intellectual Property” means: (a) the Service; (b) all improvements, changes, enhancements, and components thereof; (c) all other proprietary materials of Medicat and/or its licensors; and (d) all other intellectual property owned by Medicat including, but not limited to, all copyrights, patents, trademarks and trade names, trade secrets, specifications, methodologies, documentation, algorithms, criteria, designs, report formats, and know-how, as well as any underlying source code and object code related thereto.

14. **Term and Termination.**

- a. **Term.** The term of this Agreement is specified in the Order Form (“**Term**”) and shall continue for its full duration unless otherwise set forth herein. Thereafter, the Agreement will automatically renew for an additional twelve (12) month period unless either party provides notice of non-renewal sixty (60) days prior to the end of the then current term.
- b. **Termination.** Either party may terminate this Agreement in the event the other party materially breaches this Agreement and does not cure such breach within thirty (30) days after written notice from the non-breaching party setting forth the nature of the material breach. Upon termination of this Agreement for any reason, Client shall immediately discontinue all use of the Service, and thereafter shall have no further right, license or privilege to access, or use the Service.
- c. **Suspension of Service.** Medicat may suspend a User’s access to the Service for a violation of Section 3 of this Agreement, any applicable law, or third-party rights to the extent and for the duration necessary to address any such violation. Medicat will use commercially reasonable efforts to provide notice to Client in advance of any suspension unless such violation may cause direct harm to the Service or may result in liability to Medicat. Client agrees that Medicat will not be liable to Client or a User if Medicat exercises its suspension rights as permitted by this Section 15.

15. **Indemnification.**

- a. Medicat will indemnify and defend Client from and against any and all losses, liabilities, and claims (including reasonable attorneys' fees) arising out of any claim by a third party alleging that the Service infringes or misappropriates the intellectual property rights of that third party. Notwithstanding the foregoing, Medicat shall not be obligated to indemnify Client if such infringement or misappropriation claim arises from: (a) the Client Data; (b) Client’s or User’s misuse of the Service; or (c) Client’s or User’s use of the Service in combination with any products, services, or technology not provided by Medicat. If a claim of infringement or misappropriation is made, Medicat may, in its sole discretion: (i) modify the Service so that it becomes non-infringing; (ii) obtain a license permitting continued use of the Service; or (iii) terminate the Agreement with no liability to Client, other than Medicat’s obligation to indemnify hereunder, and return the unused portion of any prepaid Fees. Client will indemnify and defend Medicat from and against any and all losses, liabilities, and claims (including reasonable attorneys' fees) arising out of

any claim by a third party.

- b. The party seeking indemnification (the "**Indemnified Party**") shall provide the other party (the "**Indemnifying Party**") with prompt written notice upon becoming aware of any claim subject to indemnification hereunder and shall provide reasonable cooperation to the Indemnifying Party in the defense or investigation of any claim, suit or proceeding. The Indemnifying Party, at its option, will have sole control of such defense, provided that the Indemnified Party is entitled to participate in its own defense at its sole expense. The Indemnifying Party shall not enter into any settlement or compromise of any such claim, suit, or proceeding without the Indemnified Party's prior written consent, except that the Indemnifying Party may without such consent enter into any settlement of a claim that resolves the claim without liability to the Indemnified Party and without impairment to any of the Indemnified Party's rights or requiring the Indemnified Party to make any admission of liability.
16. **Consent for Promotion.** Client agrees to allow Medicat to use its name, logo, and use details in both text and pictures in its various marketing communications and materials, in accordance with Client's trademark guidelines and policies.
17. **Cooperative Purchasing.** Medicat has the sole discretion to allow other organizations to utilize this agreement to engage in cooperative purchasing with other organizations ("Cooperative Purchasing"). The following conditions apply: (a) Medicat will require separate agreements and order forms with participating organizations; and (b) Organizations taking advantage of this agreement (participating organizations) must comply with the agreement and (c) Medicat has no further obligations or liabilities to the client beyond this agreement for participating organizations.
18. **General.** Each party acknowledges that any breach, threatened or actual, of this Agreement, including, without limitation, with respect to unauthorized use of proprietary assets, will cause irreparable injury to the other party, such injury would not be quantifiable in monetary damages, and the other party would not have an adequate remedy at law. Each party therefore agrees that the other party shall be entitled, in addition to other available remedies, to seek and be awarded an injunction or other appropriate equitable relief from a court of competent jurisdiction restraining any breach, threatened or actual, of this Agreement. Each party waives any requirement that the other party post any bond or other security in the event any injunctive or equitable relief is sought by or awarded to enforce any provision of this Agreement.
 - a. Any legal notice by a party under this Agreement shall be in writing and either personally delivered, delivered by email or reputable overnight courier (such as Federal Express) or certified mail, postage prepaid and return receipt requested,

addressed to the other party at the address specified in the Order Form or such other address of which either party may from time to time notify the other in accordance with this Section 18. A copy of all notices to Medicat shall be sent to: **Medicat, LLC, 303 Perimeter Center N. STE 450, Atlanta GA 30346 Attention: General Counsel and, if by email, to: businessservices@medicat.com**. For purposes of service messages and notices about the Service, Medicat may place a banner notice or send an email to the current email address associated with an account and all notices shall be in English and deemed effective upon receipt. If Medicat is unable to perform its obligations under this Agreement due to circumstances beyond its reasonable control, including, but not limited to, acts of God, earthquakes, cyberattacks, actions or decrees of governmental bodies, changes in applicable laws, or communication or power failures, such obligations will be suspended so long as those circumstances persist.

- b. Any dispute or claim arising out of, or in connection with, this Agreement (except for claims for equitable relief which shall not be subject to this provision) shall be finally settled by binding arbitration in Client's state, in accordance with the then-current rules and procedures of the American Arbitration Association by one (1) arbitrator appointed by the American Arbitration Association. The arbitrators shall apply the law of the Client's state, without reference to rules of conflict of law or statutory rules of arbitration, to the merits of any dispute or claim. Judgment on the award rendered by the arbitrators may be entered in any court of competent jurisdiction. The parties specifically waive and disclaim the applicability of the Uniform Commercial Code, Uniform Electronic Transactions Act, and Uniform Computer Information Transactions Act to this Agreement. In the event any action or proceeding is brought in connection with this Agreement, each party shall be responsible for its costs and reasonable attorneys' fees. Except for the Client and Medicat, no other party may sue or be sued under this Agreement.
- c. Medicat is an independent contractor to Client. If any term of this Agreement is invalid or unenforceable, the other terms remain in effect and the invalid or unenforceable provision will be deemed modified so that it is valid and enforceable to the maximum extent permitted by law.
- d. The Parties agree that: (a) this Agreement constitutes the entire agreement between the parties with respect to the subject matter thereof, and any prior representations, statements, and agreements relating thereto are superseded by the terms of this Agreement; and (b) Client may use purchase orders or similar documents only as proof of acceptance of each Order Form and for convenience only, and all terms and conditions (preprinted or otherwise and regardless of how referenced) shall be void and of no effect.
- e. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their successors and permitted assigns. Any failure by either party to

enforce the other party's strict performance of any provision of this Agreement will not constitute a waiver of its right to subsequently enforce such provision or any other provision of this Agreement. Any terms that by their nature survive termination or expiration of this Agreement will survive (including, but not limited to, Sections 4, 5, 6, 12, 13, 14, 16, and 19). ***VMI Standard Contract Addendum attached and incorporated herein.***

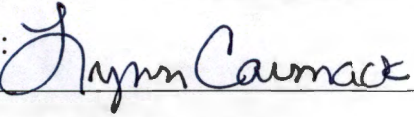
Client: Virginia Military Institute	Medicat
Signature: 	Signature:
Name: LTC Lynn Carmack	Name: Adam Cole
Title: Asst. Director, Procurement Services	Title: CEO
Date: 19 January 2024	Date:

EXHIBIT A - BUSINESS ASSOCIATE AGREEMENT

Client's execution of the Business Associate Agreement does not constitute an agreement or admission that Client is a Covered Entity for purposes of HIPAA in the services transacted under the Agreement.

1. Definitions

Terms used, but not otherwise defined, in this Agreement shall have the same meaning as those terms in HIPAA 45 CFR 160.103 and 164.501.

(a) Business Associate. "Business Associate" shall mean **Medicat, LLC**.

(b) Covered Entity. "Covered Entity" shall mean **Virginia Military Institute**.

(c) Individual. "Individual" shall have the same meaning as the term "individual" in 45 CFR 164.501 and shall include a person who qualifies as a personal representative in accordance with 45 CFR 164.502(g).

(d) Privacy and Security Rules. "Privacy and Security Rules" shall mean the Standards for Privacy and Security of Individually Identifiable Health Information at 45 CFR part 142, part 160 and part 164, subparts A and E, as well as the Health Information Technology for Economic and Clinical Health and any regulations promulgated thereunder.

(e) Protected Health Information. "Protected Health Information" shall have the same meaning as the term "protected health information" in 45 CFR 164.501, limited to the information created or received by Business Associate from or on behalf of Covered Entity.

(f) Required By Law. "Required By Law" shall have the same meaning as the term "required by law" in 45 CFR 164.501.

(g) Secretary. "Secretary" shall mean the Secretary of the Department of Health and Human Services or his designee.

2. Obligations and Activities of Business Associate

(a) Business Associate agrees to not use or further disclose Protected Health Information other than as permitted or required by the Agreement or as Required by Law.

(b) Business Associate agrees to use appropriate safeguards to prevent use or disclosure of the Protected Health Information other than as provided for by this Agreement.

(c) Business Associate agrees to report to Covered Entity any use or disclosure of the Protected Health Information not provided for by this Agreement, including incidents that constitute breaches of unsecured protected health information. Business Associate also agrees to report to Covered Entity any security incident of which it becomes aware.

(d) Business Associate agrees to establish and use appropriate procedures to safeguard against improper uses and disclosures of the Protected Health Information. In the case of electronic Protected Health Information created, received, maintained or transmitted on behalf of the Covered Entity, such procedures shall include implementation of administrative, physical and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of such electronic Protected Health Information.

(e) Business Associate agrees to ensure that any agent, including a subcontractor, to whom it provides Protected Health Information received from, or created or received by Business Associate on behalf of Covered Entity agrees to the same restrictions and conditions that apply through this Agreement to Business Associate with respect to such information.

(f) Business Associate agrees to make internal practices, books, and records relating to the use and disclosure of Protected Health Information received from, or created or received by Business Associate on behalf of, Covered Entity available to the Covered Entity, or at the request of the Covered Entity to the Secretary, in a time and manner designated by the Covered Entity or the Secretary, for purposes of the Secretary determining Covered Entity's compliance with the Privacy and Security Rules.

(g) Business Associate agrees to document such disclosures of Protected Health Information and information related to such disclosures as would be required for Covered Entity to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 CFR 164.528.

(h) Business Associate agrees to provide to Covered Entity or an Individual, in time and manner designated by Covered Entity, information collected in accordance with Section (f) of this Agreement, to permit Covered Entity to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 CFR 164.528.

(i) Business Associate shall request from Covered Entity no more than the minimum necessary Protected Health Information to perform the Services.

(j) Business Associate may disclose Protected Health Information to, and permit the use of Protected Health Information by, its employees, contractors, agents, or other representatives only to the extent reasonably necessary for the performance of the services for or on behalf of Covered Entity, and in compliance with the Privacy and Security Rules.

(k) Business Associate acknowledges and agrees that it shall comply with each provision of the American Recovery and Reinvestment Act of 2009 ("ARRA") that extends a HIPAA Privacy and Security Rules or Security Rule requirement to Business Associates of Covered Entities A and subsequent amendments thereto.

(l) To the extent required by the Privacy and Security Rules, Business Associate shall allow access to Protected Health Information by Covered Entity or the individual to whom such Protected Health Information relates, to the extent that such Protected Health Information is maintained in a designated record set, at reasonable times and in a manner reasonably directed by Covered Entity, in order to meet the individual access requirements under 45 CFR §164.524.

(m) To the extent required by the Privacy and Security Rules, Business Associate shall make any amendments to Protected Health Information maintained in a designated record set that Covered Entity directs pursuant to the amendment requirements under 45 CFR §164.526.

3. Reporting and Mitigating Any Unauthorized Uses and Disclosures

(a) In the event that Business Associate acquires knowledge of any use or disclosure of Protected Health Information that violates this Business Associate Agreement, Business Associate shall report such violation in writing to Covered Entity as soon as practicable.

(b) Business Associate shall establish procedures for mitigating, to the greatest extent possible, any deleterious effects arising from any use or disclosure of Protected Health Information which is not authorized pursuant to this Business Associate Agreement.

(c) Business Associate shall notify impacted persons of any privacy breach (as defined by Section 13400 of the ARRA with respect to Protected Health Information maintained, used, or disclosed by Business Associate pursuant to the agreement between Business Associate and Covered Entity. Pursuant to such obligation, Business Associate will, with respect to any privacy breach,

(i) Investigate any impermissible use or disclosure of Protected Health Information;

(ii) Determine whether there is a significant risk of financial, reputational, or other harm to the affected individual;

(iii) Document and retain the risk assessment and exception analyses, and make them available to the Covered Entity promptly upon request;

(iv) Notify each individual impacted by the breach by first class mail without unreasonable delay and within the applicable statutory notification period and provide toll-free telephone numbers to handle any follow-up inquiries. The notice will consist of:

(A) a brief description of the incident, including the date of the breach and the date it was discovered,

(B) a description of the types of Protected Health Information involved in the breach (such as name, Social Security Number, birth date, home address, account number or health claim information,

(C) the steps the individual should take to protect the individual from potential harm,

(D) a brief description of what the Business Associate is doing to investigate the breach, to mitigate harm to impacted individuals, and to protect against further incidents, and

(E) a toll-free number for individuals to call for more information;

(v) Provide a substitute notice to individuals for whom there is insufficient mailing address information;

(vi) Maintain a log and provide the Covered Entity with an annual report of breaches that impact fewer than 500 persons;

(vii) Notify the Department of Health and Human Services immediately, in the event the breach impacts more than 500 individuals, or annually, for breaches involving up to 500 individuals; and

(viii) Alert the Covered Entity to any required media notifications and coordinate any such notifications as necessary.

4. Permitted Uses and Disclosures by Business Associate

General Use and Disclosure Provisions

Except as otherwise limited in this Agreement, Business Associate may use or disclose Protected Health Information to perform functions, activities, or services for, or on behalf of, Covered Entity as specified in Mediat, LLC's SaaS Agreement and to test, install, update, enhance or service the licensed medical information software and its corresponding database, provided that such use or disclosure would not violate the Privacy and Security Rules if done by Covered Entity.

(a) Except as otherwise limited in this Agreement, Business Associate may use Protected Health Information for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate.

(b) Except as otherwise limited in this Agreement, Business Associate may disclose Protected Health Information for the proper management and administration of the Business Associate, provided that disclosures are required by law, or Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and used or further disclosed only as required by law or for the purpose for which it was disclosed to the person, and the person notifies the Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached.

(c) Except as otherwise limited in this Agreement, Business Associate may use Protected Health Information to provide Data Aggregation services to Covered Entity as permitted by 42 CFR 164.504(e)(2)(i)(B).

5. Obligations of Covered Entity

Provisions for Covered Entity to Inform Business Associate of Privacy Practices and Restrictions

(a) Covered Entity shall provide Business Associate with the notice of privacy practices that Covered Entity produces in accordance with 45 CFR 164.520, as well as any changes to such notice.

(b) Covered Entity shall provide Business Associate with any changes in, or revocation of, permission by Individual to use or disclose Protected Health Information, if such changes affect Business Associate's permitted or required uses and disclosures.

(c) Covered Entity shall notify Business Associate of any restriction to the use or disclosure of Protected Health Information that Covered Entity has agreed to in accordance with 45 CFR 164.522.

(d) Covered Entity shall not request Business Associate to use or disclose Protected Health Information in any manner that would not be permissible under the Privacy and Security Rules if done by Covered Entity.

6. Term and Termination

(a) Term. The Term of this Agreement shall be from the effective date of the SaaS Agreement, and shall terminate when all of the Protected Health Information provided by Covered Entity to Business Associate, or created or received by Business Associate on behalf of Covered Entity, is destroyed or returned to Covered Entity, or, if it is infeasible to return or destroy Protected Health Information, protections are extended to such information, in accordance with the termination provisions in this Section.

(b) Termination for Cause. Upon Covered Entity's knowledge of a material breach by Business Associate, Covered Entity shall provide an opportunity for Business Associate to cure the breach or end the violation. Covered Entity may terminate this Agreement as it applies to the Covered Entity if Business Associate does not cure the breach or end the violation within the time specified by the Covered Entity. Contracts between business associates and business associates that are subcontractors are subject to these same requirements.

(c) Effect of Termination.

(1) Except as provided in paragraph (2) of this section, upon termination of this Agreement, for any reason, Business Associate shall return or destroy all Protected Health Information received from Covered Entity or created or received by Business Associate on behalf of Covered Entity. This provision shall apply to Protected Health Information that is in the possession of subcontractors or agents of Business Associate. Business Associate shall retain no copies of the Protected Health Information.

(2) In the event that Business Associate determines that returning or destroying the Protected Health Information is infeasible, Business Associate shall provide to Covered Entity notification of the conditions that make return or destruction infeasible. Upon mutual agreement of the Parties that return, or destruction of Protected Health Information is infeasible, Business Associate shall extend the protections of this Agreement to such Protected Health Information and limit further uses and disclosures of such Protected Health Information to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains such Protected Health Information.

7. General Provisions

(a) This Business Associate Agreement may not be modified, nor shall any provision be waived or amended, except in a writing duly signed by both parties. A waiver with respect to one event shall not be construed as continuing, or as a bar to enforcement of any right or remedy as to subsequent events.

(b) Any notice required or permitted under this Business Associate Agreement shall be made by personal service, by commercial courier, or by certified mail with return receipt requested, and shall be deemed effective upon receipt. Notice shall be delivered to the contact person designated below, unless a party directs otherwise upon written notice to the other party:

(c) The Parties agree to take such action as is necessary to amend this Business Associate Agreement from time to time as necessary for the Covered Entity to comply with the requirements of the Privacy and Security Rules.

(d) All notices, requests and demands or other communications to be given hereunder to a Party shall be made via first class mail, registered or certified or express courier to such Party's address given below, and/or via facsimile to the facsimile telephone numbers listed below:

If to Business Associate:

Medicat LLC

Attn: Mike Meyers, Director of Information
Technology

Address: 303 Perimeter Center N., Ste. 450

Atlanta, GA 30346

Telephone number: (866) 633-4053

If to Covered Entity:

Virginia Military Institute

Attn:

Exhibit B - MEDICAL CONTENT LICENSE AGREEMENT

Product - Licensors

Stedman's Spellcheck - Wolters Kluwer
Health Language (CPT4, ICD9/10 & Code Search)
Wolters Kluwer

Product - Licensors

Lexicomp Patient Instructions - Wolters Kluwer
DSM-5 Code Set - American Psychiatric Assoc.
Rcopia ePrescribing - DrFirst

In using the Licensed Software, the Client will choose to purchase access to one or more of the above referenced products offered by Mediat, hereinafter referred to as 'Licensed Content.' This Licensed Content is copyrighted, proprietary work for which all rights, including the copyright and trademark, are owned by the respective third-party Licensors. To permit Client's use of this Licensed Content, Licensors require agreement with the terms in this Exhibit B.

- 1.1 License Grant. During the term, Mediat grants to Client (hereafter 'End-User') a limited, non-exclusive, non-transferable license to access and use of the Licensed Content. This is not a sale of the Licensed Content or of a copy of the Licensed Content. Any use or attempted use of the Licensed Content other than as expressly permitted herein is a material breach of this Exhibit B. The Licensed Content were developed by Licensors for use only in the United States and its territories.
- 1.2 License Restrictions. End-User may print limited portions of the content contained within the Licensed Content for End-User's internal business use or for distribution to a patient as a written supplement to counseling by that patient's health care provider subject to the following sentence. End-User shall not: (a) print in whole or in substantial part the Licensed Content for redistribution; (b) modify, translate, create derivative works of, reverse engineer, decompile, disassemble, or attempt to derive or alter any source code of the Licensed Content or any underlying software; (c) use the Licensed Content to provide service bureau, time sharing, or similar services to third parties, including any parent, subsidiary, or other affiliate of End-User unless such use by the parent, subsidiary, or other affiliate is explicitly permitted herein and such parent, subsidiary or other affiliate is bound by the terms of this Exhibit B.; or (d) distribute, sublicense, sell, assign, transfer, rent, lease, pledge, or encumber the Licensed Content, or make any attempt to do so; (e) alter, remove, or hinder delivery of any copyright, disclaimer, or proprietary notice appearing in the Licensed Content;.
- 1.3 No Competitive Products. Under no circumstances shall End-User use the Licensed Content or information contained therein or results derived therefrom, to develop a product(s) or service(s) in any format similar to, or which could be competitive with the Licensed Content.
- 1.4 End-User Modifications. Except to include patient specific information or instructions outside of the Licensors' content, End-User shall not modify, or create a derivative work from, the Licensed Content without the explicit, prior written permission of Licensors and Mediat. End-User assumes all liability for any modification made by End-User, or on behalf of End-User. Licensors and Mediat specifically disclaim all warranties of any nature, express and implied, regarding any End-User-modified Licensed Content.

1.5 Professional Responsibility. End-User acknowledges and agrees that the professional duty to a patient in the provision of healthcare services (including but not limited to the dispensing of drug prescriptions, provision of drug information, substitution of one drug product for another, availability of generic substitutable alternative drug products, providing instruction, and answering questions a patient may have) lies solely with the healthcare professional providing direct patient care or pharmacy services. End-User acknowledges and agrees that clinical information and screening functions in the Licensed Content are intended only as a limited supplement to, and not replacement for, the professional clinical judgment of a healthcare professional. End-User acknowledges and agrees that neither Licensor nor Mediat provides medical, pharmaceutical, or other professional advice or patient services in connection with this Exhibit B. or as part of or as a result of the provision of the Licensed Content and have no ability to verify patients' understanding of their medications and the effects of such medications. End-User acknowledges that content from the Licensed Content provided to patients: (a) is not a substitute for verbal medication counseling or physical demonstration of an administration technique by a healthcare professional, (b) may be confusing to certain patients when not interpreted by a healthcare professional, and (c) is designed solely to support the verbal information transfer by healthcare professionals and to serve as a non-comprehensive take home reference source for patients or caregivers. Therefore, as between End-User, on the one hand, and Licensor on the other hand, End-User takes full responsibility for its use of the content in, and function of, the Licensed Content in patient care. Standards and practices in medicine change as new data become available, and End-User or any healthcare professional receiving access to the software via End-User should consult a variety of sources. In addition, with respect to prescription medication, End-User or any medical professional receiving access to the software via End-User is advised to check the product information sheet accompanying each drug to verify conditions of use and identify any changes in dosage schedule or contraindications, particularly if the agent to be administered is new, infrequently used, or has a narrow therapeutic range.

1.6 Effect of Termination. Upon expiration or termination of the agreement between Mediat and Licensor or this Exhibit B. for any reason, the right to use the Licensed Content granted hereunder terminates. If so required by law or a regulatory agency, for archival purposes only, End-User may retain data from the Licensed Content if the data was derived in accordance with this Exhibit B. Data from the Licensed Content that has been included in a patient's electronic health record prior to termination may be retained in that electronic health record after termination.

1.7 Title. End-User agrees that all right, title, and interest in and to the Licensed Content and all information therein, including all copyrights and other intellectual property inherent therein or appurtenant thereto, are, and at all times shall remain, the sole and exclusive property of Licensor.

1.8 Disclosure. End-User shall treat the Licensed Content as confidential. End-User shall not share or disclose the Licensed Content to any individual or entity other than as set forth herein and

except as necessary to provide services to End-User's patients. If End-User receives a subpoena or other legal process that requires End-User to disclose the Licensed Product to a third-party, End-User shall promptly notify Licensor and provide Licensor with an opportunity to object to such disclosure prior to disclosing the Licensed Content.

1.9 No Other Rights. Rights not expressly granted to End-User herein are reserved to Licensor and/or Medcat as may be the case. End-User shall not have any implied rights in, or to use of, the Licensed Content; rather, all rights applicable to End-User are expressly set forth in this Exhibit B.

1.10 DISCLAIMER OF WARRANTIES. LICENSOR RECEIVES DATA AND INFORMATION FROM MANY INDEPENDENT SOURCES, INCLUDING DRUG MANUFACTURERS AND GOVERNMENT AGENCIES. LICENSOR CANNOT, AND DOES NOT, INDEPENDENTLY REVIEW, VERIFY, TEST, OR SUBSTANTIATE THE CONTENT FOR ACCURACY, TIMELINESS, OR COMPLETENESS AND DISCLAIMS ALL RESPONSIBILITY FOR ANY OMISSIONS OR ERRORS THEREIN AND FOR ANY ADVERSE CONSEQUENCES RESULTING THEREFROM. IN ADDITION, THE CONTENT MAY NOT NECESSARILY COVER ALL POSSIBLE USES, DIAGNOSES, TREATMENT OPTIONS, DIRECTIONS, PRECAUTIONS, DRUG INTERACTIONS, DOSAGE LIMITATIONS, LOCAL PRACTICES, OR ADVERSE EFFECTS APPLICABLE TO A PARTICULAR HEALTH CONDITION, DRUG OR TREATMENT OR A PARTICULAR PATIENT. ALTHOUGH THE CONTENT COVERS A WIDE RANGE OF HEALTH CONDITIONS, PRESCRIPTION AND NON-PRESCRIPTION DRUGS AND TREATMENT OPTIONS, IT DOES NOT INCLUDE ALL HEALTH CONDITIONS, DRUGS, VACCINES, DEVICES, AND DIAGNOSTIC AGENTS. ACCORDINGLY, AND WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, THE ABSENCE OF A WARNING FOR A GIVEN HEALTH CONDITION, DRUG OR DRUG COMBINATION, OR TREATMENT OPTION IS NOT AN INDICATION THAT NO SUCH WARNING MAY BE RELEVANT TO A PARTICULAR PATIENT. MOREOVER, THE CONTENT THAT MAY BE PROVIDED TO END-USER OR END-USER PATIENTS MAY PROVIDE USEFUL INFORMATION ABOUT HEALTH CONDITIONS, MEDICATIONS, AND TREATMENT OPTIONS, BUT THE CONTENT IS LIMITED, AND MAY BE CONFUSING TO CERTAIN PATIENTS WHEN NOT INTERPRETED BY A HEALTHCARE PROFESSIONAL. THE CONTENT IS NOT INTENDED, AND END-USER AGREES NOT TO RELY ON, AND AGREES TO INSTRUCT ITS PATIENTS NOT TO RELY ON, THE CONTENT AS A SUBSTITUTE FOR THE KNOWLEDGE, EXPERTISE, SKILL, VERBAL COUNSELING, PHYSICAL DEMONSTRATION OF AN ADMINISTRATION TECHNIQUE, OR JUDGMENT OF PHARMACISTS, PHYSICIANS, OR OTHER HEALTHCARE PROFESSIONALS IN PATIENT CARE.

IN LIGHT OF THE FOREGOING, THE LICENSED CONTENT ARE FURNISHED BY LICENSOR "AS IS" AND LICENSOR, ITS AFFILIATES, AND ITS LICENSORS MAKE NO

REPRESENTATIONS OR WARRANTIES WITH RESPECT TO THE LICENSED CONTENT OR ANY SERVICES HEREUNDER AND DISCLAIM ALL IMPLIED REPRESENTATIONS AND WARRANTIES OF ANY KIND OR NATURE ARISING OUT OF OR RELATED TO THIS EXHIBIT B., THE LICENSED CONTENT, OR RESULTS DERIVED THEREFROM INCLUDING, BUT NOT LIMITED TO, ANY REPRESENTATIONS AND WARRANTIES (i) REGARDING COMPREHENSIVENESS, SUITABILITY, AVAILABILITY, COMPATIBILITY, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NON-INFRINGEMENT OF THE LICENSED CONTENT (IRRESPECTIVE OF ANY COURSE OF DEALING, CUSTOM, OR USAGE OF TRADE) OR ANY WARRANTY THAT THE CONTENT SATISFIES GOVERNMENT REGULATIONS. NO LICENSOR EMPLOYEE, CONSULTANT, REPRESENTATIVE OR AGENT IS AUTHORIZED TO MAKE ANY STATEMENT THAT ADDS TO OR AMENDS THE WARRANTIES OR LIMITATIONS CONTAINED IN THIS EXHIBIT B.

VIRGINIA MILITARY INSTITUTE
(VMI)

CONTRACTOR'S FORM ADDENDUM

CONTRACTOR NAME: Medicat

DATE: 20 December 2023

VMI and the Contractor are this day entering into a contract and, for their mutual convenience, the parties are using the standard form agreement provided by the Contractor. This Addendum is attached to and hereby made a part of the Agreement. (As used herein, the term "Agreement" means the Contractor's Contract Form, this Addendum and, when applicable, the VMI Purchase Order, together with any other addenda or exhibits constituting part of the written contract between the parties.)

The Contractor's form contract is, with the exceptions noted herein, acceptable to VMI. Nonetheless, because certain standard clauses that may appear in the Contractor's form agreement cannot be accepted by VMI because VMI is an agency of the Commonwealth of Virginia, and in consideration of the convenience of using that form without the necessity of specifically negotiating a separate contract document, the parties hereto specifically agree that, notwithstanding any provisions appearing in the Contractor's form contract, none of the following shall have any effect or be enforceable against VMI:

1. Requiring or stating that the terms of the Contractor's form agreement shall prevail over the terms of this addendum in the event of conflict;
2. Renewing or extending the Agreement beyond the initial term or automatically continuing the Agreement period from term to term;
3. Requiring VMI to maintain any type of insurance either for VMI's benefit or for the Contractor's benefit;
4. Requiring VMI to defend, indemnify or to hold harmless the Contractor for any act or omission, with the exclusion of those acts undertaken or performed by VMI;
5. Imposing interest charges or payment terms contrary to that specified by the Code of Virginia, Sections 2.2-4347 through 2.2-4355, Prompt Payment.
6. Requiring the application of the law of any state other than Virginia in interpreting or enforcing the Agreement or requiring that any dispute under the Agreement be resolved in the courts of any state other than Virginia;
7. Requiring any total or partial compensation or payment for lost profit or liquidated damages by VMI if the Agreement is terminated before its ordinary period;
8. Requiring that the Agreement be "accepted" or endorsed by the home office or by any other officer subsequent to execution by an official of VMI before the Agreement is considered in effect;
9. Delaying the acceptance of the Agreement or its effective date beyond the date of execution;
10. Adding to the time period within which claims can be made or actions can be brought beyond the term of the contract;
11. Limiting the liability of the Contractor for property damage or personal injury;

12. Permitting unilateral modification of the Agreement by the Contractor;
13. Binding VMI to any arbitration or to the decision of any arbitration board, commission, panel or other entity;
14. Obliging VMI to pay costs of collection or attorney's fees;
15. Requiring the waiver of a jury trial;
16. Granting the Contractor a security interest in property of VMI;
17. Requiring VMI to assign ownership to Contractor of any intellectual properties developed using VMI resources;
18. Bestowing any right or incurring any obligation that is beyond the duly granted authority of the undersigned agency representative to bestow or incur on behalf of VMI.
19. Requiring confidentiality or actions relating thereto, such as a requirement to provide notice of requests for information, that exceed what is expressly authorized by the Virginia Freedom of Information Act, §§ 2.2-3700 *et seq.*, or other Virginia state law.

This Agreement consisting of the VMI Purchase Order when applicable, this VMI addendum, and the Contractor's form contract constitute the entire agreement between the parties and may not be waived or modified except by prior written agreement between the parties. Notwithstanding anything contained in the Contractor's terms to the contrary, the terms of this Agreement shall supersede any subsequent or conflicting terms or conditions included in any standard click-through or shrink-wrap end user license agreement that may accompany a purchase. Any click-through or shrink-wrap agreement shall not bind VMI.

IN WITNESS WHEREOF, the parties have caused this contract to be duly executed, intending thereby to be legally bound.

CONTRACTOR:

By: 

Title: Chief Executive Officer

Date: 1/19/2024

Date: _____

VIRGINIA MILITARY INSTITUTE:

By: Lynn Carmack Digitally signed by Lynn Carmack
Date: 2023.12.20 10:18:18 -05'00'

Title: Assistant Director Procurement Services

Date: 20 December 2023
