

RevolutionEHR Data Access Agreement

AGREEMENT is made effective the _____ day of _____ (the "Effective Date") between Health Innovation Technologies, Inc. (dba RevolutionEHR) and _____ ("Company").

RECITALS:

A. RevolutionEHR provides a web-based software solution to optometric practices that allows patient data to be accessed via the Internet, facilitating patient scheduling, documenting exam findings, accounting, ordering, inventory control, task management, patient recall, letter writing and other functions.

B. Company provides cloud-based services including, but not limited to, the services described in Appendix A attached hereto (the "Services").

C. Company wishes to access certain of data ("Data") stored as part of a registered customer's RevolutionEHR system to facilitate its provision of the Services for the registered customer ("Registered Customer").

D. RevolutionEHR has created a web services interface (the "Interface") to facilitate Company's access to the Data.

NOW, THEREFORE, in consideration of the foregoing and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Access to Identified Data. During the term of this Agreement, RevolutionEHR grants to Company a personal, non-exclusive, non-transferable license (except as set forth in Section 18(l). to access and use those portions of the Data per the Interface for communications management services (the "Identified Data") via the Interface as provided for herein. In order to access the Identified Data of a specific Registered Customer, Company shall register such Registered Customer with RevolutionEHR. Such registration shall constitute a warranty and representation that Company has entered into a contractual relationship (a "Terms of Service") with each Registered Customer (a "Registered Customer") which specifically permits Company to access the Identified Data of such Registered Customer (including Data relating to patients). Should Company's Terms of Service with a Registered Customer expire or terminate during the term of this Agreement, Company shall provide written notification thereof to RevolutionEHR within three (3) business days of such expiration or termination, and cease access to Registered Customer's Data effective the date of such expiration or termination.

2. Constraints on Use of Identified Data. Identified Data accessed through the Interface is the property of each Registered Customer and shall not be shared by Company with third parties without the written permission of the applicable Registered Customer. Identified Data shall not be sold, internally or externally, for any purpose other than for purposes of providing the Services to Registered Customers. Except as expressly permitted by this Agreement, Company is prohibited from: (a) disclosing, distributing, allowing access, or publishing the Identified Data, or any part thereof, to any third party or person other than an employee or third-party vendor (under a written agreement of confidentiality) of Company who has a need to know such information consistent with the provision of the Services to Registered Customers, or (b) using, copying, disclosing, distributing or publishing the Identified Data in any manner that competes with RevolutionEHR in the licensing or sale of electronic health records software to optometric practices. In addition to the foregoing, Company agrees not to sublicense, license, rent, sell, loan, give or otherwise distribute all or any part of the Identified Data to any third party; and, except as expressly permitted by this Agreement, agrees not to reverse engineer, disassemble, modify, or alter the Identified Data or any copy thereof, in whole or in part.

3. Data Security. RevolutionEHR and Company shall employ industry-standard practices, both technically and procedurally (including appropriate firewall technology), to protect Identified Data from unauthorized physical and electronic access. Company shall provide and maintain user access controls to ensure that only authorized persons and personnel have the ability to access Identified Data in accordance with this Agreement. RevolutionEHR and Company shall maintain adequate technical and procedural access controls and system security requirements and devices, in connection with its information technology system and data necessary for data privacy and confidentiality, data integrity, authorization, authentication and non-repudiation, and virus detection and eradication.

4. Term; Termination.

a. The initial term of this Agreement extends from the Effective Date hereof through _____ the last day of the calendar year of the effective date (the "Initial Term"). This Agreement will be automatically renewed for successive one-year terms (each a "Renewal Term") unless either party gives written notice of non-renewal at least 30 days prior to the termination of the Initial Term or any Renewal Term.

b. In the event either party materially breaches any term of this Agreement, the other party shall have the right to terminate this Agreement upon thirty (30) days written notice (10 days written notice in the event of failure to pay amounts due under this Agreement). If the breach is not capable of being cured, termination can be effective immediately upon giving of such notice.

c. Termination for Convenience. Either party may terminate this Agreement without cause provided the terminating party provides at least ninety (90) days written notice.

d. Subject to the terms of this Agreement, upon expiration or termination of this Agreement, Company shall immediately terminate all access to the Interface and cease all use thereof. Company agrees to certify its compliance with the foregoing sentence promptly upon RevolutionEHR's request. Company shall remain liable to all amounts or fees owed to, accrued hereunder or otherwise earned by RevolutionEHR up to the point of termination.

5. Compliance with Laws. Each party shall comply with all applicable state and federal laws and regulations protecting the privacy of Registered Customers' patients, including without limitation the Health Insurance Portability and Accountability Act (HIPAA).

6. Technical Support. During the term of this Agreement, RevolutionEHR shall provide the Company with the technical support indicated on Appendix A hereto.

7. Notification of Security Breaches. In the event of a breach in the security of certain personal information, Company agrees that in the event that Identified Data constituting personal information to which Company has access is acquired by any unauthorized person, Company shall notify RevolutionEHR of the breach within forty-eight (48) hours, and comply with all legal requirements with respect thereto.

8. Indemnification. Company shall defend and indemnify RevolutionEHR against all losses, damages, costs and expenses (including reasonable attorneys' fees) arising out of or relating to any third-party claim in connection with Company's unauthorized access or misuse of any Identified Data by Company or its agents or employees. RevolutionEHR shall defend and indemnify Company against all losses, damages, costs and expenses (including reasonable attorneys' fees) arising out of or relating to any third-party claim in connection with RevolutionEHR not having the right to grant the rights set forth in this Agreement or allegation that RevolutionEHR's provision of the Identified Data violates a third party's copyright or trademark. Each party shall defend and indemnify the other party against all losses, damages, costs and expenses (including reasonable attorneys' fees) arising out of or relating to any third-party claim in connection with a party's breach of Section 3 of this Agreement. The indemnified party shall give written notice to the indemnifying party promptly after learning of claims against the indemnified party, tender the defense and settlement of the claim to the indemnifying party, and provide the indemnifying party with reasonable assistance.

9. Confidentiality. Company agrees not to disclose, and to maintain in confidence, the Identified Data, financial terms and information, and product plans and technology under development, except as required under applicable law or permitted in writing by the applicable Registered Customer. The foregoing confidentiality obligations shall not apply to any information generally available to the public, independently developed or obtained without reliance on the Identified Data or approved for release by RevolutionEHR without restriction. Company acknowledges and agrees that a breach of its commitments in this Section 12 may result in damage to RevolutionEHR, the Registered Customers and the Registered Customers' patients that is irreparable in nature and is not susceptible of monetary determination and that, accordingly, in the event of any such breach, RevolutionEHR or its Registered Customers will have the right, in addition to all other rights and remedies permitted under applicable law, to seek and secure compliance by Company with such commitments through the order for injunctive relief by a court of competent jurisdiction.

10. Disclaimer of Warranties. REVOLUTIONEHR DOES NOT WARRANT THAT THE IDENTIFIED

DATA OR OPERATION OF THE INTERFACE SHALL BE UNINTERRUPTED OR ERROR FREE OR THAT IT SHALL MEET COMPANY'S NEEDS. EXCEPT AS EXPRESSLY PROVIDED HEREIN, THE IDENTIFIED DATA AND THE INTERFACE ARE PROVIDED "AS IS," WITHOUT ANY WARRANTY WHATSOEVER. REVOLUTIONEHR DISCLAIMS AND PROVIDES NO WARRANTIES HEREUNDER, EXPRESS OR IMPLIED, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON- INFRINGEMENT.

11. Exclusion of Consequential Damages. EXCLUDING INDEMNIFICATION OBLIGATIONS SET FORTH HEREIN OR A BREACH OF SECTION 12, UNDER NO CIRCUMSTANCES SHALL EITHER PARTY (OR ANY OF ITS AFFILIATES) BE LIABLE TO THE OTHER PARTY OR ANY OTHER PERSON FOR LOST REVENUES, LOST PROFITS, LOSS OF BUSINESS, OR ANY INCIDENTAL, INDIRECT, EXEMPLARY, CONSEQUENTIAL, SPECIAL, OR PUNITIVE DAMAGES OF ANY KIND, INCLUDING SUCH DAMAGES ARISING FROM ANY BREACH OF THIS AGREEMENT OR ANY TERMINATION OF THIS AGREEMENT, WHETHER SUCH LIABILITY IS ASSERTED ON THE BASIS OF CONTRACT, TORT (INCLUDING NEGLIGENCE OR STRICT LIABILITY), OR OTHERWISE AND WHETHER OR NOT FORESEEABLE, EVEN IF REVOLUTIONEHR HAS BEEN ADVISED OR WAS AWARE OF THE POSSIBILITY OF SUCH LOSS OR DAMAGES.

12. Limitation of Remedy and Liability. EXCLUDING INDEMNIFICATION OBLIGATIONS SET FORTH HEREIN OR A BREACH OF SECTION 12, IN THE EVENT OF ANY BREACH OF THIS AGREEMENT BY REVOLUTIONEHR OR COMPANY, THE OTHER PARTY'S REMEDY SHALL BE LIMITED TO THE AMOUNT OF THE TOTAL THE MAXIMUM AMOUNT OF ACCESS FEES PAID BY COMPANY TO REVOLUTIONEHR IN ANY TWELVE (12) MONTH CONSECUTIVE PERIOD DURING THE INITIAL TERM AND ANY RENEWAL TERM, AND IF SUCH PERIOD IS LESS THAN ONE (1) YEAR THEN THE AVERAGE OF MONTHS OF THE APPLICABLE PERIOD PAID TIMES TWELVE.

13. Data Exclusion. UNDER NO CIRCUMSTANCES SHALL REVOLUTIONEHR, ITS AFFILIATES, OR ANY REGISTERED CUSTOMER, BE LIABLE FOR THE TRUTH, ACCURACY, SEQUENCE, TIMELINESS OR COMPLETENESS OF THE IDENTIFIED DATA OR ANY OTHER INFORMATION PROVIDED BY REVOLUTIONEHR OR ANY REGISTERED CUSTOMER PURSUANT TO THIS AGREEMENT, FOR ANY INCONVENIENCE CAUSED BY THE LOSS OF ANY IDENTIFIED DATA OR FOR ERRORS, MISTAKES OR OMISSIONS THEREIN OR FOR ANY DELAYS OR INTERRUPTIONS IN THE OPERATION OF THE INTERFACE FROM WHATEVER CAUSE, PROVIDED THAT REVOLUTIONEHR IS NOT THE CAUSE OF ANY INACCURACY, INCOMPLETENESS OR LOSS OF SUCH DATA.

14. Rights and Remedies. RevolutionEHR and Company shall have and may cumulatively exercise all rights as it might have at law or in equity for the protection of the Identified Data and the Interface, including an injunction enjoining the breach or threatened breach of this Agreement.

15. Miscellaneous.

a. Survival of Certain Obligations. The provisions of Sections 2, 7(c) and 10 through 18 shall survive termination of this Agreement, together with any other provisions that the parties would reasonably anticipate as remaining in effect after termination of this Agreement.

b. Governing Law; Legal Fees. This Agreement will be governed by the laws of the State of California and County of San Diego, exclusive of its rules governing choice of law and conflict of laws. This Agreement will not be governed by the United Nations Convention on Contracts for the International Sale of Goods. Each Party agrees that a violation or breach of any of the ownership or non-disclosure provisions of this Agreement could cause irreparable harm to the non-breaching Party for which monetary damages may be difficult to ascertain or an inadequate remedy. Therefore, each Party will have the right, in addition to its other rights and remedies, to seek and obtain injunctive relief for any violation of the ownership or non-disclosure provisions of this Agreement, and each Party hereby expressly waives any objection, in any such equitable action, that the other Party may have an adequate remedy at law. The rights and remedies set forth in this Agreement are cumulative and concurrent and may be pursued separately, successively or together.

c. Force Majeure. Neither party shall be responsible for failures or interruptions of

communications facilities or equipment of third parties, labor strikes or slowdowns, shortages of resources or materials, natural disasters, world events, delay or disruption of shipment or delivery, trespass or interference of third parties, or similar events or circumstances outside its reasonable control. This provision shall not, however, apply to any obligation to pay money.

d. Amendment; Waiver. Except as expressly stated herein, the terms and conditions of this Agreement may not be amended, waived or modified, except in a writing signed by the party to be charged therewith.

e. Inspection Audit Rights. RevolutionEHR may, subject to RevolutionEHR entering into a reasonable confidentiality agreement with Company, at its expense and by giving reasonable advance written notice to Company, enter Company locations during normal business hours and audit Company's use of the Identified Data and the Interface. If RevolutionEHR discovers that there is an unauthorized use of the Identified Data or the Interface, or the Company is not in technical compliance with the provisions of this Agreement, or any material breach of this Agreement, then RevolutionEHR shall provide Company with written notice of such Inspection finding. The Company shall have thirty (30) days to cure the non-compliant actions and items and the Company shall reimburse RevolutionEHR for the reasonable out-of-pocket expenses incurred by RevolutionEHR in conducting the Inspection Audit.

f. No Waiver. No failure or delay of either party to exercise any rights or remedies under this Agreement shall operate as a waiver thereof, nor shall any single or partial exercise of any rights or remedies preclude any further or other exercise of the same or any other rights or remedies, nor shall any waiver of any rights or remedies with respect to any circumstances be construed as a waiver thereof with respect to any other circumstances.

g. Severability. If any provisions of this Agreement are held invalid or unenforceable in any circumstances by a court of competent jurisdiction, the remainder of this Agreement, and the application of such provisions in any other circumstances, and in any other jurisdiction, shall not be affected thereby.

h. Entire Agreement. This Agreement constitutes the complete and exclusive statement of the agreement of the parties with respect to the subject matter hereof, and supersedes all prior oral and written proposals, representations and other communications related to the subject matter hereof.

i. Notices. Any notice which may be given hereunder shall be in writing and personally delivered or addressed to RevolutionEHR or Company at its respective business address and sent postage prepaid by certified mail.

- The contact and address for RevolutionEHR shall be to the following:
 - LEGAL
 - Integrated Practice Solutions, Inc.
 - 9265 Sky Park Court, Suite 200
 - San Diego, CA 92123
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- The contact and address for Company shall be to the following
 - Contact Name
 - Company Name
 - Address
 - City, State, ZIP

j. Independent Relationship. This Agreement does not create any joint venture, partnership, agency, or employment relationship between the parties. In addition, RevolutionEHR acknowledges that Company will a separate, independent relationship with Registered Customers pursuant to its Terms of Service that are agreed upon and acknowledged by such Registered Customers, and nothing contained herein will limit Registered Company's rights in relation to such Registered Customers pursuant to such terms.

k. Assignability. This Agreement is not assignable, transferable or sub-licensable by either Party except with the other Party's prior written consent, provided that either Party may assign this Agreement without the other Party's consent to a successor to all or substantially all of such Party's assets or business to which this

Agreement relates, and Company may assign this Agreement to any entity in which it holds beneficial ownership of at least 20% or more of the voting equity securities or interests of the entity.

[the remainder of this page intentionally left blank, signature pages to follow]

IN WITNESS WHEREOF, the undersigned parties have caused this Agreement to be duly executed and delivered per the Effective Date set forth above.

RevolutionEHR:

COMPANY:

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

APPENDIX A
to
DATA ACCESS AGREEMENT

Service Provided by the Company

Technical Support and Assistance

Revolution will provide telephone and email technical support and assistance, with respect to the Interface and Company's access to the Identified Data. These services will be provided during normal business hours, currently 9:00am to 5:00pm, Central Time. There will be no fee for these services