

INVENTORY SERVICES CONDITIONS

Except as otherwise noted in the Order Form, this Inventory Services Conditions document (the "Terms") is made a part of the Syft Inventory Services Order Form ("Order Form") signed by User and GHX. This Terms are incorporated into and made a part of the Order Form.

User acknowledges that any delay in its timely compliance with these Terms may result in rescheduling of the Physical Count date(s) or a delay in receipt of the deliverables under the Order Form. GHX may modify these Terms from time to time by posting such revised terms on the URL referenced by the Order Form.

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DEFINITIONS

Terminology not defined in these Terms may be defined in the Order Form.

- “Area” means a physical inventory storage location within a User location on the Order Form that the parties mutually agree to be an “Area”
- “Area Sheet” means a document agreed to with the User during the pre-inventory process which lists all of the Areas where inventory will be counted. (e.g. 0108 OR ROOM 08, or 0184 CAST CARTS (02), or 0221 DIFFICULT INTUBATION CART)
- “Count Sheets” are physical sheets provided by User for use by GHX to perform and document the Physical Count
- “Electronic File” an electronic file provided by User to GHX. Such file will be in MS Excel or .CSV format.
- “GHX Field Manager” means the GHX employee designated as the lead for the Physical Count.
- “GHX Portal” means the online portal designated by GHX for use by GHX and User in fulfilling the parties’ obligations under the Order Form
- “Item Master File” means the Electronic File provided by User to GHX and to be used by GHX in providing the Services.
- “Party” means either User or GHX.
- “Periodic Inventory” means the following Services: Medical/Surgical Valuation, Pharmacy Valuation, Instrument, and Capital Count.
- “Perpetual Inventory Services” those services wherein GHX is updating the User’s inventory count.
- “Physical Count” means that part of the Services provided on User’s physical location(s) to count the inventory in the Area.
- “Third-Party Auditor” means any User designated auditor (internal or external to User) other than the GHX personnel.
- UOM or “Unit of Measure” means the unit that is counted in the Physical Inventory. (e.g., BX, EA, CS, RL, BT, etc.).
- “User Contact” means the individual designated by User to assist GHX in performing the Services. User Contact shall have access to and contact information for User’s personnel whose knowledge or expertise are required or relevant to the Services performed by GHX.

ALL INVENTORY SERVICES

The following bullets are applicable to all Services.

- **Periodic or Perpetual.** GHX will, with input from User, determine whether the Services are considered Periodic or Perpetual under these Terms.
- **Planning Meeting.** User Contact shall participate in a final pre-inventory planning meeting which, unless otherwise agreed to by GHX, shall occur no later than ten (10) business days prior to the scheduled Physical Count date to confirm project details including: team meet time and location, User Contact’s name and phone number, product exclusion list, and confirmation that inventory has been appropriately marked in advance by User, etc. User’s participation in pre-planning is important to the success of the project outcome.
- **Electronic Files.** Where User is to provide GHX with Electronic Files, User shall provide such files in a format acceptable to GHX and shall upload such Electronic Files onto the GHX Portal. Files must be in Microsoft Excel or .CSV format. Image files, pdfs, and other data formats are not acceptable Electronic Files.
- **Areas Where Physical Counts Are Conducted.**
 - User shall, no later than fifteen (15) business days prior to GHX’s start of the Physical Count, identify in writing all (i) Areas to where the Physical Count shall be conducted and (ii) all consumable medical/surgical supplies and pharmaceuticals to be counted in such Areas.

- User must supply secure and ample working space for GHX personnel inclusive of working electrical outlets to charge equipment. User will provide scrub suits or coverings for GHX staff when necessary. User Contact will be on-site and immediately accessible to GHX for the duration of the inventory project. User must provide access to all Areas or provide the GHX field manager with security access card(s) in order to access the Areas. User Contact will acknowledge (via signature) on the Area Sheets those Areas where GHX has completed its Physical Count. GHX will not be held responsible for the Physical Count of Area(s) that are inaccessible to GHX or if User Contact fails to acknowledge the Areas where Physical Count has been completed.
- **Do Not Inventory Areas and Items.** User shall clearly and conspicuously mark any and all items or locations in an Area that User does not want the Services to value or count as “DO NOT INVENTORY” or “CONSIGNMENT.” User will verify and verbally identify such inventory or locations with GHX personnel during the on-site walk-through during the first day of Physical Count. Supplies and pharmaceuticals lacking packaging identification (example: Item Number or MFG Catalog/Reference Number), as well as miscellaneous supplies that reside in a common container, will not be counted.
- **Expired Items.** GHX shall use commercially reasonable efforts to identify expired inventory (“Expired Items”). For Expired Items, GHX may, using commercially reasonable efforts, (i) remove expired items from the shelves or flag such items, (ii) count such items, and/or (iii) report the Expired Items to User in the GHX Portal.
- **Additional User Data to Be Included in IVR or IR.** User shall provide Electronic Files if User desires any data to be added to the IVR or IR that was not physically counted by GHX. For example, User may want to provide Electronic Files for inventory contained in cabinetry (e.g., Pyxis, Omnicell, etc.) or are in sterile trays. Such Electronic File shall contain the following information for the items to be included in the IVR or IR: item description, catalog number, manufacturer, price, UOM, conversion factor, and quantity. User shall provide all such Electronic Files: (a) prior to the start of the Physical Count for Perpetual Inventory; and (b) no later than one (1) business day from the end of the Physical Count.
 - Sterile Implant Trays. If User specifies that sterile implant trays are included in the IVR or IR, User will provide an Electronic File. Except in the case of Instrument Services, GHX will rely solely upon the Electronic Files for inclusion of sterile implant trays in the IVR or IR.
 - Case Carts. GHX will not count case carts that are already pulled for cases on for the days’ Physical Count. If User specifies that case carts are included in the IVR or IR, then User will provide an Electronic File that contains all required information for all countable items on the case cart. “Do Not Inventory” or consignment items must be notated on the file.
 - Inventory/Par Systems. If User directs GHX to include counts from inventory/par systems such as Pyxis, Omnicell, etc. which are not physically counted by GHX, the contents of each unit must be provided in an Electronic File that includes all required information for all countable items. “Do Not Inventory” or consignment items must be notated on the file. The inclusion and process for including inventory in the inventory/par system must be mutually agreed upon by the parties prior to the start of the Physical Count.
- **Report Acceptance.** User has ten (10) business days after receipt of the initial IVR and IR reports (collectively, the “Initial Report”) to submit proposed changes to the initial reports. All User changes MUST be submitted using the appropriate fields in the Initial Report and submitted to the GHX Portal. If changes are not submitted by 5:00 p.m. ET on the 10th day following receipt, User shall be deemed to have accepted the Initial Reports as final. If User timely submits changes to the Initial Report(s), GHX will deliver the final IVR and IR with revisions that GHX deems commercially reasonable. Such final IVR and/or IR deemed accepted by User.
- **Post-inventory Meeting.** After the IVR and/or IR have been approved, User will participate in a post-inventory meeting to discuss overall project satisfaction.

SAMPLE PROJECT MILESTONES

The following tables is an example of key milestones in a typical Periodic Inventory Service.

Task	Critical Date*	Client	Syft
Client to upload Item Master and P.O. History to Syft Client Portal. (1.2.1.A, 1.2.2.A, 1.2.3.A, 1.3.A)	30 days	✓	
Client to document pricing priorities to Syft via Inventory Valuation Verification document and load to Syft's Client Portal (1.2.4.B) as soon as possible after files are approved by Syft.	25 days	✓	
Syft and Client to participate in final Pre-Planning meeting. (1.1.A)	10 days	✓	✓
Client to send Area Sheet to Syft with approval/changes. (1.1.B)	15 days	✓	
Syft will provide Client with names of staff to perform counts and scrub/bunny suit sizes; ensuring all staff credentialed for project.	5 days		✓
Syft Field Manager will conduct an opening meeting with all site contacts and walk-thru of locations. (1.1.C)	Agreed Upon Inventory Count Date	✓	✓

* Number of business days prior to Inventory Count Date

Task	Critical Date**	Client	Syft
Client is on-site during duration of inventory to sign-off on Area Sheet at completion of the physical count. (1.1.D)	Agreed Upon Inventory Count Date	✓	
Client to provide Syft with any inventory data from PAR systems, implants, automated drug dispensing units, etc. to be valued as part of the inventory. (1.1.G, 1.1.J)	1 day	✓	
Syft to deliver DRAFT Inventory Valuation Report to Client. (1.2.4.D)	3-10 days		✓
Client submits any changes to Syft via the Change Template. (1.2.4.E)	1-10 days following receipt of Valuation Report	✓	
Syft delivers Final Inventory Valuation Reports to Client. (1.2.4.F)	1-7 days following receipt of Valuation Report changes		✓
Client to participate in a Post Inventory Follow-Up Call with Syft to provide their feedback on the delivery of services by Syft. (1.1.K)	~20 days following Final Inventory Report Delivery	✓	✓

** Number of business days following Inventory Count Date

NOTE: This timeline is the typical implementation timeline for Periodic Inventory Services. User's actual timeline may vary substantially.

PERIODIC INVENTORY SERVICES

For Periodic Inventory Services, the following obligations and processes are applicable to each of the identified Services.

Medical/Surgical Valuation and Medical Surgical Services

- **Electronic File.** Thirty (30) calendar days prior to the scheduled Physical Count, User shall provide as an Electronic File, a full Item Master File and 24-month purchase order history file of medical surgical supplies to be counted.
- **Medical and Surgical Items Counted.** User will identify, prior to the day of the Physical Count, all consumable medical/surgical supplies located in the Areas. The Physical Count of consumable medical/surgical supplies excludes: pharmaceuticals, linen, dietary/food products, tools and hardware such as those found in an

Engineering or Plant Operations department, instruments and sterile trays unless specifically contracted for in the Order Form, and other non-medical supplies.

Pharmacy Services

- **Electronic File.** At least thirty (30) calendar days prior to the scheduled Physical Count, User shall provide GHX an Electronic File containing the complete 24-month wholesaler and direct purchase of pharmacy items to be counted.
- **Inventory Counted.** User will identify, prior to the Physical Count, all pharmacy items located in Areas to be counted. Physical Inventory of pharmacy items excludes: consumable medical/surgical supplies, linen, dietary/food products, tools and hardware (such as those found in an engineering or plant operations department), instruments, and sterile trays unless specifically contracted for in the Order Form.
- Except for bulk oral solids and liquids, GHX shall count all products to the “each.” Bulk oral solids will be counted to the nearest ten. Liquids will be estimated to the nearest tenth or nearest appropriate unit of measure as GHX may determine. The count team will utilize laptops and barcode scanners to capture the on-site count data during Physical Count and comparing such data so captured against User’s inventory file created from User’s Electronic File. GHX will confirm item descriptions from the package, NDC, and location as permitted. Once an item’s information is verified, GHX will enter the item as “matched.” At least one day prior to the Physical Count, User will provide GHX with data in its data systems in an Electronic File.
- **Automated Dispensing Units.** GHX will include the output of data provided by User’s automated dispensing units (such as Pyxis) in its IVR and IR. If such data is not available, User shall pay a \$250.00 fee for each automated dispensing unit (such as Pyxis) that cannot provide GHX a current count report, requiring GHX to hand count the automated dispensing unit.

Capital Asset Count Services

- **Electronic File.** In Electronic Files provided to GHX at least thirty (30) calendar days prior to the Physical Count, User shall provide GHX with User’s complete asset ledger file (the “Asset Ledger”) and any other data that may be useful for identifying assets during the Physical Count.
- **Capital Assets Counted.** GHX will inventory medical equipment it has determined are considered capital assets. Examples of equipment included in the scope of work are, monitoring systems, surgical tables, surgical lights, video systems, imaging equipment, and intravenous pumps. Examples of equipment excluded from the scope of work are office equipment, office furniture, IT hardware and software, standard wheelchairs, patient beds, stretchers, pumps, boilers, electrical, and motors. If applicable, GHX shall only inventory medical equipment with an estimated cost equal to, or exceeding, the financial threshold set forth in the Order Form.
- **Inventory Report.** GHX will provide an Inventory Report that will include: (i) a list of items found/counted during the Physical Count that match items in the Asset Ledger, (ii) a list of items not found/counted during the Physical Count that were identified in the Asset Ledger, and (iii) a list of items of founder/counted during the Physical Count that are not identified in the Asset Ledger. GHX will prepare an initial Inventory Report by the date established and as mutually agreed to by GHX and User (typically no earlier than 20 Business Days after Physical Count). GHX shall deliver the preliminary reports in Excel format, via the GHX Portal.
- **OPTION—Inventory Tagging:** GHX shall tag inventoried capital assets if User selects the “Inventory Tagging” option in the Order Form and provides GHX with new tags. User shall provide GHX a sufficient number of tags prior to start of the Physical Count. GHX’s Inventory Report will include, when available to GHX: location (facility, department, floor, room), current asset tag number, new asset tag number, asset description, manufacturer name, model (if applicable), and serial number.

Instruments Services

- **Electronic File.** Thirty (30) calendar days prior to the scheduled Physical Count, User shall provide in Electronic File format, a full Item Master File and 24-month purchase order history file of instruments to be counted.
- **Instruments Counted.** User will identify, prior to the state of the Physical Count, all instruments located in the Areas. The Physical Count of instruments excludes: medical/surgical supplies, pharmaceuticals, linen, dietary/food products, tools and hardware such as those found in an Engineering or Plant Operations department, instruments and sterile trays unless specifically contracted for in the Order Form, and other non-medical supplies.

Valuation Services for Medical/Surgical and Pharmacy

- Inventory Valuation Services are not available for Capital Asset services
- **Inventory Valuation Verification.** User shall provide GHX, via the GHX Portal, a signed inventory valuation verification establishing User's preferred pricing methodology (the "Inventory Valuation Verification") at least twenty-five (25) business days prior to each scheduled Physical Count.
 - For Medical/Surgical Valuation, User acknowledges and agrees that, in the event User fails to timely return the signed Inventory Valuation Verification, GHX shall first defer to the Item Master File for pricing and second (if no pricing is found in the Item Master File) to the User provided P.O History File.
 - For Pharmacy Services: User acknowledges and agrees that if User fails to timely return and approve the Inventory Valuation Verification, GHX shall use either the User provided Wholesaler Purchase History File or proprietary master dataset maintained by GHX.
- **Unmatched Pricing.** GHX will assign GHX Average Price to all unmatched items when available. GHX will identify inventory item valuations that use GHX Average Price. User shall have the option to provide GHX with its own valuation (provided that User pricing is commercially reasonable for the item in question) by using the fields provided by GHX in the initially provided IVR or IR. Use of pricing deemed not commercially reasonable (in GHX's sole discretion) will result in GHX using the GHX Average Price for that item . For Pharmacy Services, GHX will assign Average Wholesale Pricing (AWP), when available, to all unmatched items found during the Physical Count. In this paragraph "GHX Average Price" means the prices GHX maintains in its proprietary data set for various items that may be counted under the Services. GHX makes no warranty or guarantee as to the validity of such prices.
- **IVR.** GHX shall prepare and deliver via the GHX Portal the preliminary IVR in a reasonable period of time after the end of the Physical Count. GHX reserves the right to bill User for all inventory counted and/or included even if User subsequently determines to exclude such inventory or data from the IVR.

PERPETUAL INVENTORY SERVICES

For Perpetual Inventory Services, the following obligations and processes are applicable.

- **Electronic File or Count Sheet.** Not less than thirty (30) calendar days prior to the Physical Count, User shall provide Electronic File(s) or Count Sheet(s) containing the following: manufacturer name, manufacturer catalog/part/re-order number, item description including size, user internal item number, user bin location, UOM, unit conversion (100, 5, etc.) per UOM, the cost per UOM, and UOM count.
- User shall not distribute or replenish any inventory in an Area during the Physical Count of the Area. GHX shall use commercially reasonable efforts to count all open and partial containers and record: inventory quantities (using the specified UOM), bin location, manufacturer catalog number, and/or user internal item number provided by User.
- GHX staff will count in a manner consistent with its determination as to appropriate practice.
- User shall identify and label all "Overstock" items and their locations identified for inclusion in Physical Count.
- Within three (3) hours of a count export, User will upload or enter the count quantities into User's MMIS system. Any variances to the User's MMIS system of on-hand quantities that require validation counts by GHX MUST BE BROUGHT TO THE IMMEDIATE ATTENTION OF THE GHX ON-SITE FIELD MANAGER, but in no case after the completion of the Physical Count for the Area. GHX will, if possible, provide a different inventory count specialist to conduct validation counts in conjunction with User's representative. User agrees to provide a User representative for any validation count.
- Verifications related to inventory variances from the User on-hand quantity will be conducted as set forth in the Order Form.
- The User must provide an export from User's MMIS system with inventory freeze quantity/on-hand quantity of the inventory to the GHX Field Manager prior to GHX personnel leaving the Areas.
- Unless User engages GHX to provide valuation Services GHX shall not provide an IVR. User shall report the valuation of the counted inventory to GHX in writing within two (2) business days of GHX's completion of the Physical Count. In the event this valuation is not timely provided by User, GHX will use up to 110% of GHX's estimated value for billing purposes.

OPTION: Data Export

Upon GHX's completion of the Physical Count, GHX Field Manager shall provide to User an electronic export of the inventory count data which may include, as made readily available to GHX the following data: manufacturer name, manufacturer catalog/part/re-order number, item description including size, User internal item number, User bin location, UOM, unit conversion (100, 5, etc.) per UOM, the cost per UOM, UOM count, substitute product information if applicable (manufacturer name, manufacturer catalog/part/re-order number), audit information for the inventory entry, expired flag, and item source. Note the count quantity will be the count of that item per location. Should a particular item be counted elsewhere, it will not be added for a cumulative or "rolled-up" count of that item for the overall inventory.

OPTION: Count Sheets

- If User desires to use its own Count Sheets for the Physical Count, User shall provide GHX with hard copy Count Sheets which are sequentially numbered with page numbers prior to the day of the Physical Count so that all pages may be accounted for at the beginning and at the end of the Physical Count. Count Sheets must be in bin location order. *User must provide clear unit of measure (UOM) noted on the Count Sheet.*
- User shall upload or enter the inventory counts directly into User's system(s). Any variances to the MMIS system on-hand quantities that require validation counts **MUST BE BROUGHT TO THE IMMEDIATE ATTENTION OF THE GHX FIELD MANAGER**, but in no case after the completion of the Physical Count for the Area.
- User Validation counts will be recorded in a manner that allows GHX to see the history of the count and any changes made. This requirement is satisfied by writing in the validation count next to the original count. User will not erase the original count. For example, the original count will have a single line drawn through the count which will demonstrate a validation count was executed- the original count will still be legible. GHX will perform one set of validation counts.
- The User must make copies of the completed Count Sheets to be given to the GHX Field Manager prior to the inventory team leaving the Area.

OPTION: User Equipment

- User shall provide GHX with all necessary equipment to perform the Perpetual Inventory Services. GHX and User will mutually agree to the equipment quantity required in advance of the inventory project. All equipment must be prepared for the Physical Count, including any segmentation required to assign the inventory count team to particular count Areas. GHX shall not be held responsible for an incomplete inventory result due to the failure of equipment provided by the User.
- GHX will perform a blind physical inventory count, physically count all open and partial containers and record the quantity in the equipment provided by the User.
- User must provide clear unit of measure (UOM) either on the equipment or on the User shelves.
- User is responsible for extracting the data from the User provided equipment. Any variances to the User on-hand quantities that require validation counts **MUST BE BROUGHT TO THE IMMEDIATE ATTENTION OF THE GHX FIELD MANAGER**, but in no case after the completion of the Physical Count for the Area.
- Validation counts will be performed with a User representative and GHX count specialist. GHX may designate a different count specialist than the count specialist who performed the original count. Validation counts will be recorded by a mutually agreed upon methodology as documented in the Order Form that will not replace the original count. GHX will perform one set of validation counts.
- User shall upload or enter the inventory counts directly into User's system(s).

SCHEDULING

For each year during the Term, User and GHX will mutually agree upon the scheduled dates and hours for the Physical Count. Dates will not be confirmed for the initial Physical Count until the Order Form is executed by both parties. For any inventory count to be conducted in years subsequent to the initial Physical Count, User shall notify GHX in writing at least 90 days in advance of User's preferred month for the Physical Count. GHX shall use commercially reasonable efforts to accommodate User's date preferences. The Physical Count shall incorporate User's reasonable patient care requirements. User acknowledges the Physical Count may extend beyond normal hours of operations. Mobilization of the GHX personnel for scheduled Physical Count date(s) are subject to and contingent on User satisfying all outstanding financial obligations in accordance with the Order Form. GHX reserves

the right to (a) postpone, reschedule or cancel a scheduled Physical Count if User has outstanding unpaid invoice amounts and (b) postpone a scheduled Physical Count due to weather conditions, transportation problems, or other causes beyond the control of GHX.

THIRD-PARTY AUDITS

The clinical environment is very dynamic, and inventory is in constant motion. As a result, GHX does not guarantee the validity of counts if the test counts performed by auditors are not performed while the GHX team is present in the Area and coordinating with the auditors. If User does not adhere to the third-party audit provisions of these Terms, GHX will not participate in the investigation or reconciliation of any variance between the findings provided by GHX under the Services and the findings of the auditor. Under no circumstances will GHX conduct an additional audit because the GHX reports under the Services vary from the Third-Party Auditor reports

Third-Party Audit On-Site Requirements and Procedure

- The Third-Party Auditor(s) must attend all pre-inventory conference calls and/or meetings to discuss the GHX methodology.
- The Third-Party Auditor(s) must be present during (not before or after) the Physical Count. Third-Party Auditor(s) must perform their audit and interface with GHX personnel during the Physical Count to assure accuracy of audits. If Third-Party Auditor(s) are not present at the time of the Physical Count of an Area, the GHX Team will not return to this Area for an audit to be performed. If the Third-Party Auditor(s) is not present with the GHX Team during the Physical Count and any recount is requested, a change order will be generated, and additional fees will apply.
- No more than two (2) Third-Party Auditor(s) may be in any Area at the same time during the Physical Count.
- Any Area to be audited will employ an inventory movement log which User staff must use to maintain a record of all product movement for the period during which the GHX personnel are performing a Physical Count in an Area. This log will be used to help reconcile any audit discrepancies. However, GHX strongly recommends that User “lock-down” the inventory in that Area until the Physical Count and corresponding audits are completed to mitigate any reconciliation issues.
- Audited areas must have a minimum audit sample size of 25 or at least 15% of the total records in the Area if the total records are less than 100. Areas with less than 25 audits will not be receive a recount.
- To perform the audit of an item count, the Third-Party Auditor will approach the GHX personnel performing the Physical Count and identify which product they intend to audit. Then, the Third-Party Auditor will count the item in question and compare their count to the GHX personnel’s count.
- If there is a count discrepancy, both parties count the item a second time to reach consensus on the agreed upon count quantity to be recorded as the audit record count. This value is recorded as the audited count.
- The GHX inventory count “Audit Report” provided by the GHX Field Manager will serve as the official audit document of record for the inventory.
- At the completion of the audits, the Third-Party Auditor(s) must reconcile the GHX Audit Report with its own records and “sign-off” on the GHX Audit Report. If the Third-Party Auditor(s) do not agree to sign-off on the GHX Audit Report, User shall meet with both the Third-Party Auditor(s) and GHX Field Manager to resolve any discrepancy between the Third-Party Auditor(s) records and the GHX Audit Report. User’s resolution of the discrepancy will be incorporated into the final GHX Audit Report

Area Recount Trigger

Upon the completion of the Physical Count of an Area, if more than 10% of the audits performed had a variance from the original count recorded, then the audit sample size will be doubled, and additional audits performed. If the count variance including the expanded sample size remains above 10%, those records demonstrating a count variance then must show a valuation variance of greater than 2% of the total financial valuation of the counted Area to be considered for a recount. If that variation persists, GHX will collaborate with the Third-Party Auditor on next steps. Next steps may include a recount of the Area as soon as practical that day with different GHX personnel at no additional cost to User. Any other request by the User for a recount other than expressly provided herein will require a change order and additional fees will apply.

SOFTWARE LICENSE GRANT; ACCESS RIGHTS; RESTRICTIONS

License Grant. Subject to User's compliance with this Agreement, GHX grants a non-exclusive, nontransferable license for the Term to User and its Affiliates, and User's and its Affiliates' employees, contractors, and/or bona fide existing or potential vendor representatives authorized to use the respective Service's online portal (each a "Designated Individual") to access and use the Service's online portal, including the GHX Portal (the "Software Service").

Access Rights. In order to use the Software Service, User must obtain access to GHX servers through the World Wide Web at User's own expense. Except as otherwise set forth in the Order Form, GHX will provide to Designated Individuals unlimited access to the Software Service through unique logon identifiers and passwords (collectively, the "Logon"). User will ensure that each Designated Individual will: (a) be responsible for the security and/or use of his or her Logon; (b) not disclose such Logon to any person or entity; (c) not permit any other person or entity to use his or her Logon; (d) immediately notify GHX of any known or suspected unauthorized use of a Logon or any other breach of security; and (e) use the Software Service in accordance with this Agreement. GHX reserves the right to deny, suspend or revoke access to the Software Service, in whole or in part, upon the breach by User of this Agreement, or a breach by a Designated Individual, provided that User fails to cure that breach within 30 days. GHX reserves the right to immediately revoke or deny access to User or Designated Individuals who violate the terms of this Agreement while acting outside the scope of their employment or for using the Software Service for a purpose other than that intended by the Parties.

Restrictions. Except as otherwise provided in this Agreement, User agrees that User will not knowingly: (a) provide, disclose, divulge or make available to, or permit use of the Software Service by any Third-Party; (b) copy, duplicate, or reproduce all or any part of the Software Service (except as expressly provided for herein); (c) interfere, or attempt to interfere, with the Software Service in any way; and (d) engage in or allow any action involving the Software Service that is inconsistent with this Agreement; (e) use the Software Service for employment purposes or for any other purpose deemed to be an impermissible purpose under the Fair Credit Reporting Act ("FCRA"); and (f) take any action based on the Software Service without independent verification.

FEES; PAYMENT TERMS

Fees. Except for the Initial Deposit (which amount is payable prior to commencement of each count or valuation Service), all amounts due GHX are payable in full within 30 days from date of invoice ("Due Date"). Invoice amounts not paid on or before the Due Date shall bear interest at the rate of 1.0% per month or the highest lawful rate, whichever is lower. User will pay all sales, use, service, and similar taxes levied or based on the Service fees other than taxes based on or measured by GHX's income, revenues, employees, or corporate existence. GHX shall not invoice and User shall not pay any taxes if User has provided GHX reasonable evidence of User's tax exemption, such as a valid tax exemption certificate, relieving GHX of the responsibility to collect taxes.

TERMINATION

Either Party may terminate this Agreement (i) for breach by the other Party if the breach is not cured within 30 days after receipt of written notice; or (ii) if the other Party is declared insolvent by, or files a voluntary petition of bankruptcy in, a court of competent jurisdiction, or assigns this Agreement for the benefit of creditors. Further, if User fails to pay fees due to GHX after 30 days' written notice and right to cure, GHX may suspend performance of all GHX services until payment. User remains liable for fees for any GHX services suspended or terminated for breach by User. Termination or suspension is without prejudice to the non-breaching Party's other rights or remedies.

RESPONSIBILITIES

Adherence to Timeline. Timelines will be specified in the project schedule for the Services. Adherence to these timelines is important for Services implementation. Any rescheduling will be based on a mutually agreed revised project schedule, dependent on resource availability.

Systems and Processes. User shall, at its own cost, comply with all technical requirements for the Services and maintain its relevant information technology ("IT") systems and applications as needed to meet these technical requirements. To meet operational and security needs, GHX may notify User of changes to the technical requirements. User must notify GHX of any changes to User's IT systems, applications, certifications or processes that impact the Services. User changes are subject to the Additional Scope section.

No Modification. User shall not modify GHX's technical configurations or Software Service parameters.

Security Controls. Each Party shall use commercially reasonable efforts to maintain the security of network systems, environments, and data within that Party's control.

PHI and Other Sensitive Data. Unless GHX specifications for the Service include fields specifically for this information, User will take reasonable steps to avoid transmitting to GHX sensitive or proprietary data. User will not provide any protected health information ("PHI") as defined under the Health Insurance Portability and Accountability Act ("HIPAA").

Accepted Practice. GHX shall perform its obligations in a commercially reasonable manner.

Additional Scope. Services outside the scope described in the Agreement, including the addition of new Affiliate locations not included in the Order Form, require an amendment, variations schedule or change order (when available) and additional fees may apply.

Failure of User to Adhere to Terms. If, as a result of User's failure to adhere to these Terms the Services provided do not conform to User's expectations, GHX will not refund, credit, or re-perform the Services. User agrees that User will not fail to approve a deliverable (e.g., IVR or IR) because such deliverable contains errors arising from User's failure to conform to these Terms.

LIMITATION OF LIABILITY

NEITHER PARTY SHALL HAVE ANY LIABILITY HEREUNDER FOR ANY INDIRECT, INCIDENTAL, PUNITIVE, SPECIAL, CONSEQUENTIAL OR OTHER SIMILAR DAMAGES, OF ANY NATURE, INCLUDING WITHOUT LIMITATION, LOSS OF USE, LOSS OF REVENUE, LOSS OF MONEY, LOSS OF BUSINESS, LOSS OF OPPORTUNITY, LOSS OF GOODWILL, OR LOSS OF REPUTATION, UNDER ANY THEORY OF LAW, EVEN IF THE AFFECTED PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. GHX'S AGGREGATE LIABILITY FOR ALL ACTS OR OMISSIONS, SHALL BE LIMITED TO THE FEES ACTUALLY PAID BY USER TO GHX IN THE PRIOR 12 MONTHS FOR THE SERVICES GIVING RISE TO THE LIABILITY.

DISCLAIMER AND INDEMNIFICATION

Disclaimer. EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, GHX MAKES NO REPRESENTATIONS, WARRANTIES OR COVENANTS WITH RESPECT TO THE SERVICES. ALL SERVICES ARE PERFORMED HEREUNDER "AS IS." GHX HEREBY DISCLAIMS ALL IMPLIED WARRANTIES, INCLUDING, WITHOUT LIMITATION, WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, ACCURACY OF DATA, NONINFRINGEMENT AND IMPLIED WARRANTIES ARISING FROM COURSE OF DEALING OR COURSE OF PERFORMANCE WITH REGARD TO THE AGREEMENT AND SERVICES THEREUNDER.

Indemnification. Each Party shall indemnify and hold harmless the other Party, its officers, directors, employees and agents ("Indemnitees") from and against any and all loss, cost, damage, expense, judgement and liability including reasonable, out of pocket attorney's fees ("Loss") suffered or incurred by the Indemnitees resulting from or arising out of any Third-Party claim, demand, action, suit or proceeding ("Claim") (i) relating to the indemnifying Party's failure to comply with requirements of applicable law or regulations; (ii) resulting from the indemnifying Party's gross negligence or willful misconduct; or (iii) in the case of GHX, that any GHX intellectual property infringes, misappropriates or violates third parties' rights under any United States trademark, United States copyright, trade secret or any United States patent issued as of the Effective Date unless the Claim is caused by misuse or modification by User (except as authorized by

GHX) or by User's use of GHX intellectual property in combination with any product or information not owned by or developed by GHX. If the Services infringe, or in the opinion of GHX are likely to infringe, any Third-Party intellectual property right, GHX shall, as the exclusive remedy and at its sole option and expense, either: (a) procure for User the right to continue to use the Services as set forth in this Agreement; (b) replace the Services with non-infringing software; (c) modify the Services to make its use non-infringing while being capable of performing the same or substantially the same function or (d) terminate User's right to use the Services and give User a refund of any unused subscription fees for such Service.

OWNERSHIP

Intellectual Property. The intellectual property (including copyrights, trade secrets, patents, trade names, and trademarks) owned, licensed or provided in delivering the Services ("GHX IP") shall remain the exclusive property of GHX or its Third-Party licensors. User specifically agrees that all material related to the Services (except the IVR and IR approved and paid for by User) shall not be considered work-made-for-hire and that such material (including all intellectual and proprietary rights contained therein) shall, upon creation, be solely and exclusively owned by GHX. GHX IP incorporated into the IVR or IR shall remain the exclusive property of GHX. GHX grants User a non-exclusive, non-transferable license to the GHX IP that is included in the IVR and IR approved and paid for by User.

Data Usage.

a. Definitions

- i. **"Customer Data"** means all data, information, records and files that User loads, transmits, enters or otherwise provides to GHX for the performance of Services by GHX, including but not limited to data GHX obtains from User's servers or systems or from third parties on User's behalf.
- ii. **"Derivative Data"** means compilations of multiple users' Customer Data concerning which GHX has taken commercially reasonable precautions to ensure that User and no individual or particular transaction can be identified, along with all data models, statistical analyses, analytic tools, products, benchmarks, forecasts and other information GHX has developed based on Customer Data, alone or in combination with other data sources.

b. Ownership

- i. **Customer Data.** As between User and GHX, User will own all Customer Data. GHX will be under no duty of inquiry regarding the ownership of such data or User's right to dispose of such data.
- ii. **Derivative Data.** As between GHX and User, GHX owns, and will own, all right, title and interest in and to all intellectual property, whether now existing or hereafter arising, embodied in or associated with Derivative Data, but excluding any of User's intellectual property. The intellectual property described in this Section constitutes "GHX IP."

c. Usage Rights

- i. **Customer Data and Derivative Data:** User grants GHX a worldwide, perpetual, irrevocable, royalty-free license to use Customer Data to perform and improve services provided by GHX and its affiliates and for the preparation of Derivative Data.

CONFIDENTIALITY

The Parties agree that (a) all information in oral, visual, written, electronic, or other tangible or intangible form that is communicated to the receiving Party ("Recipient") by the disclosing Party ("Discloser") that is either marked or identified as proprietary or confidential or to which the Recipient has access to in connection with this Agreement that a reasonable person would understand or expect to be confidential; and (b) trade secrets as defined under applicable state or federal law, will be, and will be deemed to have been, received in confidence and will be used only for purposes of this Agreement (collectively defined as "Confidential Information"). Each Party as Recipient agrees that it will (i) use the same means it uses to protect its own confidential information, but in no event less than reasonable precautions, to prevent the disclosure and unauthorized use and to protect the confidentiality of Confidential Information; (ii) not use or reproduce the Confidential Information, including that Recipient will not reverse-engineer, disassemble, decompile, extract proprietary information from, or translate any of the Discloser's products or software; and (iii) not at any time, without the express written permission of the Discloser, disclose any such Confidential Information, or any information derived there from, directly or indirectly to any third person or entity, except to its employees' agents, contractors, officers, directors, attorneys, accountants and financial advisors ("Representatives"), who are bound to similar confidentiality restriction and have a need to know.

The Recipient of the Confidential Information is responsible for compliance with and liable for any breach of this Article by its Representatives. The Recipient of Confidential Information may disclose Confidential Information to the extent required by law or judicial or administrative order; provided that the Recipient gives the Discloser reasonable notice (unless notice is prohibited by law or order). The Discloser may seek protective orders at its own expense.

Confidential Information shall not include information that: (a) was publicly known at the time of disclosure by the Discloser; (b) becomes generally known or available by publication; (c) was developed by or on behalf of the Recipient by individuals with no knowledge of, and without access to or use of, the Discloser's Confidential Information or any information generated from such Confidential Information or (d) otherwise learned by a Party through legitimate means other than from the other Party or anyone connected with the other Party. Upon termination or expiration of this Agreement, User will cease using the Service and, if requested, each Party will use commercially reasonable efforts to return or destroy all of the other Party's Confidential Information in its possession. Recipient may maintain reasonable copies of Confidential Information for archive, backup, evidentiary, and compliance purposes. The terms of this Confidentiality Section will continue to apply to Confidential Information retained by Recipient until it is returned or destroyed.

MISCELLANEOUS PROVISIONS

Governing Law. This Agreement is deemed to have been made and will be construed and interpreted in accordance with the laws of the State of Delaware without regards to its principles of conflicts of law and the Parties agree to the exclusive jurisdiction of the federal and state courts located in Delaware.

Relationship; Assignment; Sublicense. The individual executing this Agreement on behalf of User represents that he or she has authority to do so. This Agreement shall be binding on the Parties and their successors and permitted assigns. Neither Party shall assign this Agreement, or any part thereof without the prior written consent of the other Party, which consent shall not be unreasonably withheld, conditioned, or delayed; provided however, that if GHX is a party to a merger, acquisition, sale of all or substantially all of its assets, or other substantial change in control or ownership, directly or indirectly, User waives this consent requirement. In addition, GHX may assign, delegate, sublicense, transfer, any of its rights or obligations under this Agreement to any of its wholly owned subsidiaries. GHX may subcontract all or a portion of the Services, provided that GHX will be responsible for the performance of the work of a sub-contractor to the same extent as if its own employees performed the Services.

Force Majeure. Except for obligations to make payment neither Party will be liable to the other for any delay in performance or inability to perform due to Force Majeure. "Force Majeure" includes any acts or omissions of any civil or military authority, acts of God, acts or omissions of the other Party hereto, terrorism, fires, strikes or other labor disturbances, major equipment failures, fluctuations or non-availability of electrical power, heat, light, air conditioning or telecommunications equipment that cannot reasonably be foreseen or prevented, or any other act, omission or occurrence beyond either Party's reasonable control. If either Party's performance is delayed by Force Majeure, the time for performance will be reasonably extended.

Independent Contractors. None of the provisions of this Agreement are intended to create, nor shall be deemed or construed to create, any relationship between the Parties other than that of independent entities contracting with each other solely for the purpose of effecting the provisions of this Agreement. Neither Party nor any of its employees or agents will be construed to be the agent, the employer, or representative of the other Party. Neither Party has any express or implied rights nor authority to assume or create any obligation or responsibility on behalf of or in the name of the other Party, except as may otherwise be set forth in this Agreement.

Notices. All notices, requests, demands, consents and approvals ("Notices") under this Agreement shall be delivered in writing, and will be deemed to have been fully given and received: (i) when delivered in writing personally on a business day; (ii) when sent by confirmed facsimile on a business day during business hours; (iii) three (3) business days after being mailed, if mailed by registered or certified mail, return receipt requested, postage prepaid; or (iv) one (1) business day after deposit with a commercial overnight carrier, with written verification of such receipt. Such notice shall be sent to the address on the signature page. Any Party to this Agreement may, by notice given in accordance with this Section, designate a new address for Notices.

No Third-Party Beneficiaries. The representations, warranties, covenants and agreements of the Parties set forth herein are not intended for, nor shall they be for the benefit of or enforceable by, any Third-Party or person not a party hereto, including without limitation, Designated Individuals.

Entire Agreement. This Agreement constitutes the entire understanding between the Parties regarding the subject matter hereof. Any prior agreements, promises, negotiations or representations, whether written or oral, regarding the subject matter hereof are of no force or effect. No alteration or variation of the terms of any provision shall be valid unless made in writing and signed by a duly authorized representative of GHX and User. The Services provided by GHX are subject to the condition that they will not be used for any unlawful purposes.

Severability and Waiver. In the event any provision of this Agreement is rendered invalid or unenforceable by an act of Congress including, but not limited to, HIPAA, the Anti-Kickback Statute, the Criminal and Civil False Claims Act, the Federal Self-Referral Statute (Stark I, II, and III), the Criminal False Statement Act, or any other provision relating to the fraud and abuse compliance obligations of providers participating in the Medicare and/or Medicaid programs, or by any duly promulgated regulation, or declared null and void by any court of competent jurisdiction, the Parties shall exercise their commercially reasonable efforts to renegotiate this Agreement to comply with the requirements of law. If the Parties fail to reach such an accommodation after 90 days following a written request by either of the Parties to discuss such an accommodation, then either Party may terminate this Agreement upon 30 days' written notice, without further obligation or penalty, financial or otherwise, to the other Party. Waiver by a Party of any default by the other will not be deemed a waiver of any other default irrespective of whether the default is similar.

Affiliates. User represents and warrants that: (a) it is duly authorized to enter into this Agreement for itself and any Affiliates; and (b) User and its Affiliates will comply with this Agreement in accessing and using the Services.

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