“HipLink presented by AT&T” Messaging Services Attachment
Last Revised 7/08/13

1. “HipLink presented by AT&T” Messaging Services ("Services" or "HipLink"). Pursuant to the terms and conditions of the Agreement, this Attachment, and the Service Description, AT&T will provide the HipLink Messaging Services to Customer and its qualified Corporate Responsibility Users ("CRUs"). HipLink is a software solution more fully described in the Service Description.

2. Software License. HipLink software, interfaces, documentation, and data as may be updated, downloaded, or replaced by feature enhancements, software updates, system restore software or provided subsequently by AT&T, are licensed, not sold, to Customer by Semotus, Inc. and/or its licensors/suppliers for use only on Customer’s eligible equipment. Customer’s use of HipLink software shall comply with its intended purposes as determined by AT&T, all applicable laws, and AT&T’s Acceptable Use Policy at att.com/AcceptableUsePolicy.

To use the Service, Customer must enter into a separate End User License Agreement ("EULA") with Semotus, Inc. for the software residing on the server and in the client application. The EULA must be accepted at the time the client application is downloaded or before its first use. If Customer does not accept the terms of the EULA, Customer should not use the Service. Customer accepts the EULA on behalf of each authorized CRU User, and agrees that each authorized CRU User will comply with the obligations under the EULA, including but not limited to the limitations of use outside of the US. Customer is responsible for providing each authorized CRU User an enabled mobile device with a copy of the EULA. The Customer and the authorized CRU User are individually and jointly liable under the EULA. Authorized IRU Users must accept the EULA in their individual capacity and are individually responsible for complying with the obligations.

The EULA is found at: http://www.HipLink.net/documents/ATT CustEula.html

3. Confidential Information.

3.1 Confidential Information. Confidential Information means: (a) information the parties or their affiliates share with each other in connection with this Agreement or in anticipation of providing Services under this Agreement (including pricing or other proposals), but only to the extent identified as Confidential Information in writing; (b) except as may be required by applicable law or regulation, the terms of this Agreement; and (c) Customer Personal Data. For the purposes of this Section, “Customer Personal Data” means information that identifies an individual, that the Customer directly or indirectly makes accessible to AT&T and that AT&T collects, holds or uses in the course of providing the Services.

3.2 Obligations. A disclosing party’s Confidential Information will, for a period of 3 years following its disclosure to the other party (except in the case of software, for which the period is indefinite): (a) not be disclosed, except to the receiving party’s employees, agents and contractors having a need-to-know (but only if such agents and contractors are not direct competitors of the other party and agree in writing to use and disclosure restrictions as restrictive as this Section 5) or to the extent authorized to be revealed by law, governmental authority or legal process (but only if such disclosure is limited to that which is so authorized and prompt notice is provided to the disclosing party to the extent practicable and not prohibited by law, governmental authority or legal process); (b) be held in confidence; and (c) be used only for purposes of using the Services, evaluating proposals for new services or performing this Agreement (including in the case of AT&T to detect fraud, to check quality and to operate, maintain and enhance the network and Services).

3.3 Exceptions. The restrictions in this Section will not apply to any information that: (a) is independently developed by the receiving party without use of the disclosing party’s Confidential Information; (b) is lawfully received by the receiving party free of any obligation to keep it confidential; or (c) becomes generally available to the public other than by breach of this Agreement.

3.4 Privacy. Each party is responsible for complying with the privacy laws applicable to its business. AT&T shall require its personnel, agents and contractors around the world who process Customer
Personal Data to protect Customer Personal Data in accordance with the data protection laws and regulations applicable to AT&T’s business. If Customer does not want AT&T to comprehend Customer data to which it may have access in performing Services, Customer must encrypt such data so that it will be unintelligible. Customer is responsible for obtaining consent from and giving notice to its Users, employees and agents regarding Customer’s and AT&T’s collection and use of the User, employee or agent information in connection with a Service. Customer will only make accessible or provide Customer Personal Data to AT&T when it has the legal authority to do so. Unless otherwise directed by Customer in writing, if AT&T designates a dedicated account representative as Customer’s primary contact with AT&T, Customer authorizes that representative to discuss and disclose Customer’s customer proprietary network information to any employee or agent of Customer without a need for further authentication or authorization.

4. Default. If Customer breaches any terms or conditions of this Attachment or the Agreement, then Customer will be in default and, in addition to any other remedies set forth in the Agreement, AT&T may modify or terminate the Services.

5. Indemnification. Customer agrees to indemnify, defend and hold harmless AT&T and its collaborators, suppliers and licensors, and their officers, directors, agents and employees (the “Indemnified Parties”) from and against any claim, proceeding, loss, damage, fine, penalty, interest and expense (including, without limitation, fees for attorneys and other professional advisors) arising out of or in connection with the following: (i) Customer’s or its users’ access to or use of the Services, including the content or effects of any messages Customer distributes using the Services; (ii) Customer’s breach of this Attachment or the Agreement; (iii) Customer’s violation of law; (iv) Customer’s negligence or willful misconduct; or (v) Customer’s violation of the rights of a third party. Customer will promptly notify AT&T in writing of any third-party claim arising out of or in connection with Customer’s access to or use of the Services.

6. Use of De-identified Protected Health Information. Customer shall require end users of the Service to sign a form that protected health information (“PHI”) (as defined in the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”)) may be used by AT&T and AT&T’s suppliers in order to render the Services. This form will also notify end users that AT&T and its suppliers may de-identify PHI and utilize this information for their own purposes including, without limitation, aggregate reporting, sharing with other AT&T related business activities for the purpose of improving end user application development, and other business needs of AT&T and its suppliers. All PHI will be managed and handled according to the terms of a Business Associate Addendum or Agreement. De-identification of data will be performed in accordance with the requirements set forth in 45 CFR §§ 164.514(a)-(d).