

## TERMS OF SERVICE

**Last Updated:** December 9, 2021

These Terms of Service (the "Terms") governs your receipt and use of our services as described herein and in each Service Order (as defined below). The parties agree as follows:

These Terms may apply to you individually, the business or other legal entity user you represent, or both. If you are using the Services on behalf of a company or other legal entity, you hereby represent and warrant that you have the authority to enter into the Agreement on behalf of such entity. By accessing, registering for or using the Services, you: (1) acknowledge that you have read and understand the Agreement; (2) agree to be bound by them in their entirety, and (3) are entering into a legally binding agreement with us. As used in the Agreement and unless separately identified as applicable to either an individual or entity,

BY ACCEPTING THESE TERMS, EITHER BY CLICKING A BOX INDICATING YOUR ACCEPTANCE OR BY ACCESSING AND USING THE SERVICE, YOU AGREE TO THESE TERMS. IF YOU DO NOT AGREE TO ALL OF THESE TERMS, DO NOT USE THE SERVICES. YOUR USE OF OUR SERVICES REQUIRES YOUR ACCEPTANCE OF THESE TERMS AS THEY MAY BE AMENDED FROM TIME TO TIME, INCLUDING THE POLICIES INCORPORATED BY REFERENCE HEREIN, WHICH INCLUDES OUR PRIVACY POLICY.

## 1. DEFINITIONS.

1.1 “Affiliate” means any entity that, directly or indirectly, controls, is controlled by or is under common control with such entity (but only for so long as such control exists), where “control” means the ownership of more than 50% of the outstanding shares or securities representing the right to vote in the election of directors or other managing authority of such entity.

1.2 “Authorized User” means your employee, your Affiliate’s employee, or a Permitted Third Party’s employee for whom you create a unique user name and password under your account.

1.3 “Agreement” means these Terms and any Service Orders you enter into with us.

1.4 “Confidential Information” means all confidential information disclosed by a party (“Disclosing Party”) to the other party (“Receiving Party”) in connection with the Agreement that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure. Confidential Information does not include any information that (i) is or becomes generally known to the public without breach of any obligation owed to the Disclosing Party, (ii) was known to the Receiving Party prior to its disclosure by the Disclosing Party without breach of any obligation owed to the Disclosing Party, (iii) is received from a third party without breach of any obligation owed to the Disclosing Party, or (iv) was independently developed by the Receiving Party.

1.5 “Local Software” means software components to be installed on your, your Affiliates’, or your Authorized Users’ computer systems or mobile or other devices.

1.6 “Permitted Third Party” means an entity under contract with you or your Affiliates who needs to access the Services to perform its obligations to you or your Affiliates and who is not our competitor.

1.7 “Services” means the software-as-a-service product identified in the Service Order, including but not limited any associated Local Software and website portals found on our or our Affiliates’ websites.

1.8 “Service Order” means an ordering document entered into between you and us specifying the services to be provided thereunder, including any addenda and supplements thereto. An online registration or sign-up page may also constitute a Service Order if it references these terms.

1.9 “We” or “us” or “our” means the entity that executes the Service Order with you.

1.10 “You” or “your” or “Pharmacy” means the customer named on the Service Order, the person indicating acceptance of this Agreement, or if the person indicating acceptance of this Agreement is acting on behalf of a company or other legal entity, such company or legal entity.

## 2. USE OF THE SERVICE

2.1 Use of the Service. To be eligible to use the Services, you represent and warrant that you: (i) are at least 18 years of age, or otherwise over the age of majority in the jurisdiction in which you reside; (ii) are not currently restricted from the Services and are not otherwise prohibited from having an account related thereto; (iii) will only maintain one account at any given time; (iv) will only provide accurate information to us; (v) have full power and authority to enter into the Agreement and doing so will not violate any other agreement to which you are a party; and (vi) will not violate any our or a third party’s rights. You assume all responsibility for your use of, and access to, the Services. Accounts are for a single user, company or other legal entity, as applicable. Any multiple-party use, other than individual use on behalf of a company or other legal entity, is prohibited. For example, sharing a login between non-entity individual users is prohibited. Subject to the terms and conditions of the Agreement, we grant you a limited, worldwide, non-exclusive, non-transferable right during the term of set forth in the applicable Service Order to use the Services solely in connection with your internal business operations. Your rights to use the Services are subject to any limitations on use of the Service based on the version of the Services you register for (e.g., applicable usage limits) (collectively, the “Scope Limitations”) and your rights to use the Service are contingent upon your compliance with the Scope Limitations and the Agreement. You are solely responsible for your conduct, any data uploaded by your or your customers into the Services, or otherwise provided for processing by the Services (collectively, “Your Data”), the content of Your Data and legality and means by which you acquired it, and all communications with others while using the Services. You acknowledge that we have no obligation to monitor any information on the Service, but we may remove or disable any information that you make publicly available on the Services at any time for any reason or for no reason at all. We are not responsible for the availability, accuracy, appropriateness, or legality of Your Data or any other information you may access using the Service.

2.2 Acceptable Use. Except as otherwise explicitly provided in these Terms or as may be expressly permitted by applicable law, you will not, and will not permit or authorize third parties to: (a) rent, lease, or, except as explicitly set forth in these Terms, otherwise permit third parties to use the Services; (b) use the Services to provide services to third parties as a service bureau or in any way that violates applicable law; (c) circumvent or disable any security or other technological

features or measures of the Services, or attempt to probe, scan or test the vulnerability of a network or system, or to breach security or authentication measures; (d) upload or provide for processing any information or material that is false, misleading, illegal, defamatory, libelous, offensive, abusive, obscene, or that violates any applicable law or the privacy or intellectual property rights of any third party, or that contains any health or medical information of any individual or any information of any person under the age of 13 without the express, prior, written consent of such person's legal guardian; (e) use the Service to harm, threaten, or harass another person or organization; (f) send, store, or distribute any viruses, worms, Trojan horses, or other disabling code or malware component harmful to a network or system; (g) use any robot, spider, site search/retrieval application, or other manual or automatic device or process to download, access, retrieve, index, "data mine", or in any way reproduce or circumvent, avoid, bypass, remove, or deactivate the navigational structure or technical measures or presentation of the Services or its contents; (h) attempt to probe, scan or test the vulnerability of the Services or any of our systems or network or breach any security or authentication measures; (i) mislead recipients as to your identity, create a false caller ID (e.g., ID spoofing), forge addresses or headers, or fraudulently undertake other technical measures to misrepresent the origin or identity of the sender; (j) perform auto-dialing or "predictive dialing"; trunk or forward phone or fax number we provided to you to other numbers that handle multiple simultaneous calls or to a private branch exchange (PBX) or a key system; traffic pumping or access stimulation of calls through the Services or (k) use, display, "frame" or "mirror" any part of the Services, our names, any of our trademarks, logos or other proprietary information, or the layout and design of any page or form contained on a page, without prior written authorization from us. You will not copy, reproduce, modify, translate, enhance, decompile, disassemble, reverse engineer, or create derivative works of the Service or its underlying software. You will neither alter nor remove any trademark, copyright notice, or other proprietary rights notice that may appear in any part of the Service and will include all such notices on any copies.

2.3 Accounts. You represent and warrant all information you provide us (such information, "Account Information") is complete, true and current and accurately reflected in the Service Order and invoices and/or statements received from us or our Affiliates. Additionally, if a change occurs such that Account Information is no longer complete, true, current or accurate, you shall, promptly inform us of such change in writing.

2.4 Beta Versions. From time to time, we may make available for you to try, at your sole discretion, certain functionality related to the Service, which is clearly designated as beta, pilot, limited release, non-production, or by a similar description (each, a "Beta Version"). Beta Versions are intended for evaluation purposes and not for production use, are not supported, and may be subject to additional terms. We may discontinue Beta Versions at any time in our sole discretion and may never make them generally available. We have no liability for any harm or damage arising out of or in connection with a Beta Version.

2.5 Service Availability. You are responsible for making Your Data available that is necessary for us to provide the Service. Actual service coverage, speeds, locations and quality may vary. We will attempt to provide the Services at all times, except for periods for maintenance and repair or in the case of emergencies or outages. The Services may be subject to unavailability for a variety of factors beyond our control including, without limitation, emergencies, third-party service failures, transmission, equipment or network problems or limitations, interference, signal strength, and may be interrupted, limited or curtailed. Delays or omissions may occur. We are not responsible for data, messages or pages lost, not delivered, delayed or misdirected because of interruptions or performance issues with the Services or communications services or networks. We may impose usage or Services limits, suspend the Services, or block certain kinds of usage in our sole discretion to protect users, data, our systems, or the Services. The accuracy and timeliness of data received is not guaranteed.

### **3. TERM; TERMINATION**

3.1 Term. This Agreement commences on the effective date specified in the Service Order and continues for the initial subscription term specified in the Service Order, unless this Agreement is terminated earlier in accordance with the terms of this Agreement. Unless otherwise expressly stated in the Service Order, this Agreement automatically renews for additional successive terms equal in length to the initial subscription term specified in the Service Order unless at least 30 days before the end of the then-current term either party provides written notice to the other party that it does not intend to renew.

3.2 Termination. Either party may terminate this Agreement if the other party does not cure its material breach of this Agreement within 30 days of receiving written notice of the material breach from the non-breaching party. Termination in accordance with this subsection will take effect when the breaching party receives written notice of termination from the non-breaching party, which notice must not be delivered until the breaching party has failed to cure its material breach during the 30-day cure period. If you fail to timely pay any fees, we may, without limitation to any of our other rights or remedies, suspend performance of the Services until we receive all amounts due, or may terminate this Agreement pursuant to this Subsection. We may terminate your license to use Free Versions at any time in our sole discretion.

3.3 Post-Termination Obligations. Following termination, you shall immediately cease use of the Services and any license granted to you under any agreement related to your use of the Services shall immediately terminate. Upon termination, we may delete all of your data, and other information stored on our servers. Sections 2.2, 3.3, 4, 5.3, 7, 8, 9, 10, 11 and 14 will survive termination.

#### 4. FEES

4.1 General. As a condition to receiving the Services and Technical Support Services, you shall pay all one-time setup fees (if any) and recurring fees and other amounts further described in, and in accordance with, the applicable Service Order (“Fees”). You hereby authorize us (either ourselves or through an Affiliate) to charge the credit card—or other electronic payment method—associated with the payment method you have provided us for all Fees on an as-incurred basis. You are responsible for ensuring that the credit card information on file is current at all times. Missed billing cycles, for any reason, may result in loss or interruption of Services. ”

4.2 Late Payments. Notwithstanding our right set forth in Section 4.1 to automatically charge for the payment of Fees, we may invoice you for any Fees, and you shall pay such invoice within fifteen (15) days of receipt thereof via money transfer, ACH, check or any other payment method we may deem acceptable in our sole discretion. If payment is not made on the respective due date, we may, at our discretion and in addition to other remedies available, (i) charge a late fee on the unpaid balance at the lesser of one and one-half percent (1.5%) per month or the maximum lawful rate permitted by applicable law, and compounded monthly, and (ii) suspend your access to the Services. You agree to reimburse us for all collection costs, attorney’s fees incurred in collecting overdue payments, and interest for any overdue amounts.

4.3 Early Termination Fees. In the event you cancel or terminate any Service Order prior to its natural expiration, you agree to pay an early termination fee equal the amount of the remaining Fees set forth in such Service Order (pro-rated for any partial months) as if no such early cancellation or termination had occurred (the “Early Termination Fee”). The Early Termination Fee will become immediately due and payable upon an early cancellation or termination and represents our fees for permitting an early termination and not a penalty.

#### 5. DATA

5.1 Protected Health Information. The parties acknowledge and agree that Pharmacy is a “Covered Entity” as such term is defined under the Health Insurance Portability and Accountability Act of 1996, and associated regulations, in each case, as amended from time to time (“HIPAA”) and that Pharmacy’s use of the Services may involve the use and/or disclosure of protected health information (“PHI”) as defined under HIPAA. The parties acknowledge and agree that to the extent that we are required to access, create, use, disclose, transmit or maintain PHI in providing you the Services hereunder, our HIPAA Business Associate Agreement (“BAA”), available at <http://www.digitalpharmacist.com/business-associate-agreement/> and incorporated by reference in its entirety into the Service Order, is to govern such access, creation, use, disclosure transmission and/or maintenance. If a conflict exists between the terms and conditions of these Terms and those of the BAA, the terms and conditions of the BAA will control with respect to the treatment of PHI. Unless expressly provided otherwise in writing, each party shall only use PHI as authorized under the Agreement and in accordance with the BAA.

5.2 Data Transmission. You are responsible for obtaining end user (i.e., Pharmacy patient) authorization as required by state and/or Federal law prior to using or disclosing individually identifiable patient information. You are solely responsible for any communications sent via the Services. You hereby warrants that you are solely responsible for the end-user content and its compliance with state and federal pharmacy board regulations. You acknowledge that use of the Service involves transmission of Your Data and other communications over the Internet and other networks, and that such transmissions could potentially be accessed by unauthorized parties. You are solely responsible for (i) securing, and maintaining the confidentiality of, any login credentials, passwords and files that our in your possession, (ii) obtaining and maintaining—both the functionality and security of—any equipment and ancillary services needed to connect to, access or otherwise use the Services, including hardware, software, operating systems, networking and the like, (iii) backing-up Your Data during the term of the Agreement. Pharmacy hereby acknowledges it will not have access to Your Data through the Services following the expiration or termination of the Agreement. You must promptly notify us of any suspected security breach at [securitybreach@digitalpharmacist.com](mailto:securitybreach@digitalpharmacist.com).

5.3 Your Data. Your Data is your property. We use data in accordance with our privacy policies found at <https://www.vowinc.com/client/privacy-policy/>, which is hereby incorporated. You grant us a non-exclusive, worldwide, perpetual, royalty-free license to use, copy, transmit, sub-license, index, store, aggregate, and display Your Data as required to provide or perform under the Agreement, account management and support services, and technical services, and to publish, display, and distribute de-identified information derived from Your Data and from your use of the Service for any lawful purposes, including, without limitation, improving our products and services, developing new products and services, and developing, displaying, and distributing benchmarks, analysis and similar reports, provided that we do so in accordance

with all applicable laws including as consistent with HIPAA and its de-identification requirements set forth at 45 CFR 164.514(b).

**5.4 California Consumer Privacy Act (“CCPA”) Compliance.** You acknowledge and agree that we are acting as a Service Provider within the meaning of CCPA in connection with the Services. We, as a Service Provider, will not use Personal Information (as defined in the CCPA) for any purpose not permitted by CCPA. We will not retain, use or disclose Personal Information for any purposes other than expressly specified herein, including, without limitation, performing the Services. As permitted by CCPA, we may aggregate, de-identify, or anonymize Personal Information, so that it no longer meets the Personal Information definition, and may use such aggregated, de-identified, or anonymized data for our own research and development purposes. We will not attempt to or actually re-identify any previously aggregated, de-identified, or anonymized data. We will comply with all reasonable instructions we receive from you related to (i) questions or complaints received from Consumers (as defined in the CCPA) regarding their Personal Information (each, a “Privacy Inquiry”) and (ii) any requests from Consumers exercising their rights in their Personal Information granted to them under CCPA (“Privacy Request”). If we are directly contacted with a Privacy Inquiry or Privacy Request, we will forward such inquiry to you. Unless otherwise permitted by CCPA, we will only take actions regarding a Privacy Inquiry or a Privacy Request pursuant to its legal obligations and your lawful and commercially reasonable instructions. At your written request, we will assist you at your expense in answering or complying with any Privacy Inquiry or Privacy Request within thirty (30) days of your written request.

**6. CONFIDENTIALITY.** The Receiving Party will (i) not to disclose or use any Confidential Information for any purpose outside the scope of the Agreement, and (ii) limit access to Confidential Information to those of its Affiliates and its and their employees, contractors and agents who need such access for purposes consistent with the Agreement and who are bound by confidentiality restrictions no less stringent than those herein. Notwithstanding the foregoing, we may disclose your Confidential Information to the extent we believe it is reasonably necessary to comply with any court order or law. Within thirty (30) days following the expiration or earlier termination of the Agreement, to the extent Receiving Party possesses or controls any Disclosing Party’s Confidential Information, Receiving Party shall destroy or otherwise purge from Receiving Party’s systems such Confidential Information, provided that we may maintain one (1) copy of any such Confidential Information if we determine, in our sole discretion, that the maintenance of such Confidential Information is necessary to comply with applicable laws or regulations. We may freely use any feedback or suggestions that are provided regarding the Services.

## **7. INTELLECTUAL PROPERTY RIGHTS**

**7.1 Reservation of Rights.** We retain all right, title, and interest in and to the Services, its underlying technologies, and all related intellectual property rights, including without limitation any modifications, updates, customizations, cards, apps, or other add-ons. Your rights to use the Service on are limited to those expressly set forth in these Terms. We reserve all other rights in and to the Service and its underlying technologies.

**7.2 Trademark license.** You hereby grant us a limited, non-exclusive, sub licensable, irrevocable (during the term of the Agreement), royalty-free license to use, copy, modify, display, and distribute your trademarks, service marks, trade names, logos, company names, or other similar designations (the “Pharmacy Marks”) that it provides to us or our Affiliates (i) in connection with providing Services hereunder, and (ii) in our promotional materials during the term of the Agreement; provided, in each case, we and our Affiliates shall comply with any usage guidelines and quality control standards you’re provide with respect to the use of the Pharmacy Marks.

**8. DISCLAIMER.** We will use commercially reasonable efforts to provide the Services in accordance with generally acceptable industry standards. EXCEPT AS SET FORTH HEREIN OTHERWISE, YOUR USE OF THE SERVICES IS AT YOUR SOLE RISK. WE DO NOT MAKE ANY ADDITIONAL REPRESENTATION OR WARRANTY OF ANY KIND WHETHER EXPRESS, IMPLIED (EITHER IN FACT OR BY OPERATION OF LAW), OR STATUTORY, AS TO ANY MATTER WHATSOEVER. WE EXPRESSLY DISCLAIM ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, QUALITY, ACCURACY, TITLE, AND NON-INFRINGEMENT. WE DO NOT WARRANT AGAINST INTERFERENCE WITH THE ENJOYMENT OF THE SERVICE. WE DO NOT WARRANT THAT THE SERVICE IS ERROR-FREE OR THAT OPERATION OR USE OF THE SERVICE WILL BE SECURE OR UNINTERRUPTED. WE EXERCISE NO CONTROL OVER AND EXPRESSLY DISCLAIM ANY LIABILITY ARISING OUT OF OR BASED UPON THE RESULTS OF USE OF THE SERVICES OR DOCUMENTATION. WE ARE NOT RESPONSIBLE FOR THE FAILURE TO STORE OR MAINTAIN ANY OF YOUR DATA, CONTENT OR TRANSCRIPTIONS, USER COMMUNICATIONS, ACCOUNT INFORMATION, OR PERSONAL SETTINGS. WE MAKE NO WARRANTY ABOUT THE COMPLETENESS OR ACCURACY OF THE TRANSCRIPTION.

## 9. INDEMNIFICATION.

9.1 Our Indemnification. We shall (i) defend and hold you harmless against any claim, suit, demand, or action made or brought against you alleging that Pharmacy's use of the Services in compliance with the Agreement infringes or misappropriates any individual's or entity's intellectual property rights ("Intellectual Property Claims") and (ii) indemnify you against any settlements with such third party agreed to by us or any awards by a court of competent jurisdiction in favor of such third party bringing the Intellectual Property Claim(s). Our obligations in this section are contingent on being provided prompt written notice of the Intellectual Property Claim, our sole control of the defense and settlement of all Intellectual property Claims (provided we will not settle any such claims without your consent, which you may not unreasonably withhold), and your reasonable cooperation in defending and settling Intellectual Property Claims. For the avoidance of doubt, indemnification under this Section may not be invoked or relied upon for any Intellectual Property Claims that arise from (a) misuse or alteration of the Services if no infringement would have occurred absent such misuse or alteration, (b) use of the Services in combination with any apparatus, hardware, or services not provided or furnished by us or our Affiliates, or (c) use of the Services in a manner for which they were neither designed or contemplated, in each case, if no infringement would have occurred absent such event.

9.2 Your Indemnification. You agree to defend, indemnify and hold us, our affiliate companies, and each of our respective directors, officers, employees, contractors, agents, successors and assigns harmless from any claim or demand, including reasonable attorneys' fees, arising out of or relating to (i) any violation of the Agreement by you; (ii) Your Data or any other content or material you submit or otherwise transmit through our Services; (iii) your violation of any applicable laws or rights of another; (iv) your negligent or more culpable conduct; or (v) your use of the Services other than in accordance with the Agreement. We may, at our own expense, elect to assume the exclusive defense and control of any third party claim otherwise subject to defense by you. You may not settle or compromise any claim subject to this section without our prior written consent in our sole discretion.

## 10. LIMITATIONS OF LIABILITY

10.1 Disclaimer of Indirect Damages. UNDER NO CIRCUMSTANCES WILL WE, OUR AFFILIATES, EMPLOYEES, OFFICERS, AGENTS, REPRESENTATIVES ("PROVIDER PARTIES") BE LIABLE TO YOU OR ANY OTHER PERSON FOR ANY INDIRECT, INCIDENTAL, PUNITIVE, SPECIAL, EXEMPLARY OR CONSEQUENTIAL DAMAGES ARISING OUT OF THE USE, INABILITY TO USE, OR THE RESULTS OF USE OF OUR SERVICES, WHETHER BASED ON WARRANTY, CONTRACT, TORT (INCLUDING NEGLIGENCE), OR ANY OTHER LEGAL THEORY; INCLUDING WITHOUT LIMITATION DAMAGES RESULTING FROM PERSONAL INJURY, DEATH, LOST PROFITS, LOST DATA, LOSS OF BUSINESS OR BUSINESS INTERRUPTION, WHETHER DIRECT OR INDIRECT, ARISING OUT OF THE USE, INABILITY TO USE, OR THE RESULTS OF USE OF OUR SERVICES, WHETHER BASED ON WARRANTY, CONTRACT, TORT (INCLUDING NEGLIGENCE), OR ANY OTHER LEGAL THEORY. YOUR SOLE AND EXCLUSIVE REMEDY UNDER THIS AGREEMENT SHALL BE FOR YOU TO DISCONTINUE YOUR USE OF THE SERVICES.

10.2 Cap on Liability. TO THE EXTENT PERMITTED BY LAW, UNDER NO CIRCUMSTANCES WILL ANY PROVIDER PARTIES' TOTAL LIABILITY OF ALL KINDS ARISING OUT OF OR RELATED TO THESE TERMS (INCLUDING BUT NOT LIMITED TO WARRANTY CLAIMS), REGARDLESS OF THE FORUM AND REGARDLESS OF WHETHER ANY ACTION OR CLAIM IS BASED ON CONTRACT, TORT, OR OTHERWISE, EXCEED THE GREATER OF (A) TOTAL AMOUNTS PAID BY YOU UNDER THESE TERMS DURING THE TWELVE (12) MONTHS IMMEDIATELY PRECEDING THE DATE OF THE EVENT GIVING RISE TO THE CLAIM OR (B) FIVE HUNDRED DOLLARS (\$500).

10.3 Claims Period Limitation. You agree any cause of action arising out of or related to the use of our Services must be commenced within two (2) years after the cause of action accrues, or such action will be permanently barred.

10.4 Exception. Some states or jurisdictions may not allow the exclusion or the limitation of liability. In such states or jurisdictions, the Provider Parties' liability to you shall be limited to the full extent permitted by law.

10.5 Independent Allocations of Risk. Each provision of these terms that provides for a limitation of liability, disclaimer of warranties, or exclusion of damages is to allocate the risks of these terms between the parties. This allocation is reflected in the pricing offered by us to you and is an essential element of the basis of the bargain between the parties. Each of these provisions is severable and independent of all other provisions of these terms. The limitations in this section will apply notwithstanding the failure of essential purpose of any limited remedy in these terms.

**11. ARBITRATION AGREEMENT**. Any dispute arising out of or relating to this Agreement, or its subject matter, shall be resolved exclusively by binding arbitration under the Commercial Arbitration Rules of the American Arbitration Association ("AAA"). The arbitration will be conducted in Austin, Texas by a single arbitrator knowledgeable in government contracting matters and the commercial aspects of "software as a service" or "platform as a service" arrangements and intellectual property. The arbitrator will provide detailed written explanations to the parties to support his/her award and regardless of outcome, each party shall pay its own costs and expenses (including attorneys' fees) associated with the

arbitration proceeding and fifty percent (50%) of the fees of the arbitrator and the AAA. The arbitration award will be final and binding and may be enforced in any court of competent jurisdiction.

## **12. CONSENT TO ELECTRONIC COMMUNICATIONS**

12.1 Consent. You agree that we may send the following to you by email or by posting them on our website and/or mobile application: legal disclosures; these Terms; our privacy policy; future changes to any of the foregoing; and other notices, policies, communications or disclosures and information related to the Services. You agree that we may contact you via email, phone, text, or mail regarding your membership or the Services. You consent to receive such communications electronically. You agree to update your contact information to ensure accuracy. Your consent to conduct actions electronically covers all interactions between you and us.

12.2 Updating your Consent. If you later decide that you do not want to receive certain future communications electronically, please send an email to [privacy@digitalpharmacist.com](mailto:privacy@digitalpharmacist.com) or a letter to the notice address set forth in Section 14.9. You may also opt out of certain electronic communications through your account or by following the unsubscribe instructions in any communication you receive from us. Your withdrawal of consent will be effective within a reasonable time after we receive your withdrawal notice described above. We will need to send you certain communications electronically regarding the Services. You will not be able to opt out of those communications – e.g., communications regarding updates to the Terms or information about billing. Your withdrawal of consent will not affect the legal validity or enforceability of the Terms provided to and accepted by, you. If you withdraw your consent to receive communications electronically, certain Services may become unavailable to you.

## **13. THIRD PARTY SERVICES.**

13.1 Integration with Third Party Services. The Services may contain features designed to interoperate with products, applications, or services not provided by us, including, without limitation, the products, applications and services provider by an Authorized User (collectively, each a “Third Party Service”). To use such features, you may be required to obtain access to such Third Party Service from its provider, and may be required to grant us access to your account(s) on such Third Party Service. You shall provide, and shall cause the provider of the Third Party Service to provide, us with any reasonably requested information and materials needed to integrate the Third Party Service with the Services.

13.2 Permissions; Disclaimer. If you choose to use a Third Party Service with the Services, you grant us permission to allow the Third Party Service and its provider to access any data (including, without limitation, data that may constitute confidential information) provided to us in connection with the Services as required for the interoperation of that Third Party Service with the Services. We are not responsible for any disclosure, modification or deletion of such data resulting from access by any Third Party Service or its provider. Any acquisition by you of a Third Party Service, and any exchange of data between you and any Third Party Service or its provider, is solely between you and the applicable third-party provider. We does not warrant or support Third Party Service or other third-party products or services. Further, we cannot guarantee the continued availability of any Service features that interoperate with Third Party Service, and may cease providing them without being in breach of this Agreement or entitling you to any refund, credit, or other compensation, if for example and without limitation, the provider of a Third Party Service ceases to make the Third Party Service available for interoperation with the corresponding Service features in a manner acceptable to us.

## **14. MODIFICATIONS**

14.1 To the Agreement. We reserve the right, at our discretion, to change these Terms on a going-forward basis at any time. If a change materially modifies your rights or obligations, you will be required to accept the modified Terms in order to continue to use the Services. Material modifications are effective upon your acceptance of the modified Agreement, which acceptance may be by email or your continued use of the Services after we have notified you of the modification. Immaterial modifications are effective upon publication. Disputes arising under this Agreement will be resolved in accordance with the version of this Agreement that was in effect at the time the dispute arose.

14.2 To the Services. We may update, upgrade or change the Services from time to time in our sole discretion. We will provide all such updates, upgrades or changes to the Services that we make generally available to our other similar customers free of charge, but we otherwise reserve the right to charge an additional fee.

## **15. GENERAL PROVISIONS**

15.1 Product Specific Terms. Subject to the Services you have purchased from us, the additional terms and conditions found at <https://www.digitalpharmacist.com/client/software-services-description/> shall apply and are hereby incorporated by reference.

15.2 Access by Competitors. You may not access the Service if you are our direct competitor, except with our prior written consent. In addition, you may not access the Service for purposes of monitoring its availability, performance, or functionality, or for any other benchmarking or competitive purpose.

15.3 United States Only. The Services are intended for use only within the United States and its territories. We make no representation that the Services are appropriate, or are available for use outside the U.S. Those who choose to access and use our Services from outside the U.S. do so on their own initiative, at their own risk, and are responsible for compliance with applicable laws.

15.4 U.S. Government Use. If the Service is licensed under a United States government contract, you acknowledge that the Service is a “commercial item” as defined in 48 CFR 2.101, consisting of “commercial computer software” and “commercial computer software documentation,” as such terms are defined in FAR Section 2.101 and Section 252.227-7014 of the Defense Federal Acquisition Regulation Supplement (48 CFR 252.227-7014) and used in 48 CFR 12.212 or 48 CFR 227.7202-1, as applicable. You also acknowledge that the Service is “commercial computer software” as defined in 48 CFR 252.227-7014(a)(1). United States government agencies and entities and others acquiring under a United States government contract will have only those rights, and will be subject to all restrictions, set forth in these Terms.

15.5 Relationship. We will be and act as an independent contractor (and not as the agent or representative of you) in the performance of these Terms.

15.6 Assignment and Delegation. You may not assign any of your rights or delegate any of your obligations under these Terms (in whole or in part) without our prior written consent, except in connection with a change of control, merger, or by operation of law. Your assignment or delegation will not relieve you of your obligations under these Terms nor release you of your liability under these Terms. We may voluntarily, involuntarily, or by operation of law assign any of our rights or delegate any of our obligations under these Terms without your consent, including but not limited to delegating responsibility of providing some or all of the Services to one or more subcontractors or our Affiliates. Any purported assignment or delegation in violation of this Subsection will be null and void. Subject to this Subsection, these Terms will bind and inure to the benefit of each party’s respective permitted successors and permitted assigns.

15.7 Notices. Any notice required or permitted to be given in accordance with these Terms will be effective if it is in writing and sent by certified or registered mail, or overnight courier, return receipt requested, to the appropriate party at the address at the address provided by the other party and with the appropriate postage affixed. Our current notice address is set forth in Section 14.9. Either party may change its address for receipt of notice by notice to the other party in accordance with this Subsection. Notices are deemed given two business days following the date of mailing or one business day following delivery to a courier.

15.8 Force Majeure. We will not be liable for, or be considered to be in breach of or default under the Agreement on account of, any delay or failure to perform as required by the Agreement as a result of any cause or condition beyond our reasonable control, including but not limited to acts of God, changes to law or regulations, embargoes, war, terrorist acts, acts or omissions of third party technology providers, riots, fires, earthquakes, floods, power outages, strikes, weather conditions, viruses, malware or ransomware, or acts of hackers, internet service providers or any other third party, or your or your Affiliates’ acts or omissions.

15.9 Governing Law. This Agreement will be governed and construed under the laws of the State of Texas without regard to conflicts of law provisions. Any suit or proceeding arising out of or relating to this Agreement will be brought in the federal or state courts, as applicable, in Texas, and each party irrevocably submits to the jurisdiction and venue of such courts and not including the provisions of the 1980 U.N. Convention on Contracts for the International Sale of Goods.

15.10 Third-Party Beneficiaries. Each of our Affiliates is a third party beneficiary of these Terms to which we reserves the right to extend the benefits, obligations, and privileges without specifically naming such Affiliate as a party. Without limiting the foregoing, liability to you in connection with the Agreement shall reside solely with us and not with our Affiliates. Any Affiliate may execute a separate Service Order for Services subject to the same terms and conditions of these Terms. Notwithstanding anything to the contrary in these Terms, neither we nor any of our Affiliates have any joint and several liability with one another to you. Your rights and obligations under these terms are with respect to us and you agree to seek the recovery of any damages solely against us, and not with any of our Affiliates.

15.11 Waiver. Failure, neglect, or delay by a party to enforce the provisions of the Agreement or its rights or remedies at any time, will not be construed as a waiver of the party’s rights under the Agreement and will not in any way affect the validity of the whole or any part of the Agreement or prejudice the party’s right to take subsequent action. Exercise or enforcement by either party of any right or remedy under the Agreement will not preclude the enforcement by the party of any other right or remedy under the Agreement or that the party is entitled by law to enforce.



15.12 Severability. If any part of the Agreement is found to be illegal, unenforceable, or invalid, the remaining portions of the Agreement will remain in full force and effect. If any material limitation or restriction on the use of the Service under the Agreement is found to be illegal, unenforceable, or invalid, your right to use the Service will immediately terminate.

15.13 Headings. Headings are used in the Agreement for reference only and will not be considered when interpreting the Agreement. The singular of any term, including any defined term, shall include the plural and the plural of any term shall include the singular.

15.14 Entire Agreement. These Terms contain the entire agreement of the parties with respect to the subject matter of the Agreement and supersede all previous communications, representations, understandings, and agreements, either oral or written, between the parties with respect to said subject matter. No usage of trade or other regular practice or method of dealing between the parties will be used to modify, interpret, supplement, or alter the terms of the Agreement.