

# Terms of Use

These Terms of Use (this “Agreement”) set forth the terms and conditions that apply to your access and use of MedicareSuggest.com and related services (“Medicare Suggest”) as owned and operated by Milliman, Inc., its subsidiaries and/or affiliates. Except as otherwise specifically stated herein, Milliman, Inc., its subsidiaries and/or affiliates are collectively known as “Milliman.” As used in this Agreement, the term “Sites” includes all Medicare Suggest websites, pages that are associated or within each website and all devices, applications or services that Milliman operates or offers that link to this Agreement. By accepting electronically (for example, clicking “I Agree”), installing, accessing or using Medicare Suggest, you agree to be bound by the terms and conditions of this Agreement and Milliman Privacy Statement, as they may be amended from time to time in the future (see “Modifications” below). If you do not agree to this Agreement, then you may not use Medicare Suggest.

**\*\*\*To close your account and delete your data, please click the Delete Account button in your account profile.\*\*\***

## 1. Accepting the Terms

By using the information, tools, features, software and functionality including content, updates and new releases provided by Milliman of Medicare Suggest, you agree to be bound by this Agreement, whether you are a “Visitor” (which means that you simply browse the MedicareSuggest.com website), or a “Customer” (which means that you have registered for an account with Milliman to use Medicare Suggest). The term “you” or “User” refers to a Visitor or Customer. The term “we” refers to Milliman. If you wish to become a Customer or want to make use of Medicare Suggest, you must read this Agreement and indicate your acceptance during the registration process.

You may not use Medicare Suggest and you may not accept this Agreement if you are not legally authorized to accept and be bound by these terms or are not at least 18 years of age and, in any event, of a legal age to form a binding contract with Milliman.

Before you continue, you should print or save a local copy of this Agreement for your records.

## 2. Privacy and your Personal Information

You can view the Milliman Privacy Statement here and on the Sites for Medicare Suggest. You agree to the applicable Milliman Privacy Statement, and any changes published by Milliman. You agree that, as part of Medicare Suggest, Milliman may use and maintain your data according to the Milliman’s Privacy Statement. You give Milliman permission to combine information you enter or upload for Medicare Suggest with that of other users of Medicare Suggest and/or other Milliman services. For example, this means that Milliman may use your and other users’ non-identifiable, aggregated data to improve Medicare Suggest or to design promotions. Milliman may access or store personal information in multiple countries, including countries outside of your own country, to the extent permitted by applicable law.

## 3. Description of the Services

Medicare Suggest is a service that allows you to connect your personal health accounts from a variety of services and receive a list of health insurance plans best suited based on your needs. Medicare Suggest is provided to you by Milliman without charge (it is free) and is meant to provide you with information to help you manage your healthcare.

#### **4. Account Information from Third Party Sites**

Users may direct Milliman to retrieve their own information maintained online by third-parties with which they have customer relationships, maintain accounts or engage in financial transactions (“Account Information”). Milliman works with one or more online service providers to access this Account Information. Milliman does not review the Account Information for accuracy, legality or non-infringement. Milliman is not responsible for the Account Information or products and services suggested based on the Account Information.

Milliman cannot always foresee or anticipate technical or other difficulties which may result in failure to obtain data or loss of data, personalization settings or other service interruptions. Milliman cannot assume responsibility for the timeliness, accuracy, deletion, non-delivery or failure to store any user data, communications or personalization settings. For example, when displayed through Medicare Suggest, Account Information is only as fresh as the time shown, which reflects when the information is obtained from such sites. Such information may be more up-to-date when obtained directly from the relevant sites. You can refresh your Account Information through Medicare Suggest, in the manner prescribed in the associated instructions.

#### **5. Your Registration Information and Electronic Communications**

In order to allow you to use Medicare Suggest, you will need to sign up for an account with Milliman.

Although Milliman is responsible for securely storing your password and LoginID within Medicare Suggest, you agree and understand that you are also responsible for maintaining the confidentiality of your password which, together with your LoginID (e-mail address), allows you to access the Sites. That LoginID and password, together with any mobile number or other information you provide form your “Registration Information.” By providing us with your e-mail address, you consent to receive all required notices and information electronically. Electronic communications may be posted on Medicare Suggest site and/or delivered to your e-mail address that we have on file for you. It is your responsibility to promptly update us with your complete, accurate contact information, or change your information, including e-mail address, as appropriate. Notices will be provided in HTML (or, if your system does not support HTML, in plain-text) in the text of the e-mail or through a link to the appropriate page on our site, accessible through any standard, commercially available internet browser. Your consent to receive communications electronically is valid until you end your relationship with us.

You may print a copy of any electronic communications and retain it for your records. We reserve the right to terminate or change how we provide electronic communications and will provide you with appropriate notice in accordance with applicable law.

If you become aware of any unauthorized use of your Registration or Account Information for Medicare Suggest, you agree to notify Milliman immediately at the email address - [support@MedicareSuggest.com](mailto:support@MedicareSuggest.com).

If you believe that your Registration or Account Information or device that you use to access Medicare Suggest has been lost or stolen, that someone is using your account without your permission you must notify us immediately in order to minimize your possible losses.

## **6. Your Use of the Services**

Your right to access and use the Sites and Medicare Suggest is personal to you and is not transferable by you to any other person or entity. You are only entitled to access and use the Sites and Medicare Suggest for lawful purposes. Accurate records enable Milliman to provide Medicare Suggest to you. You must provide true, accurate, current and complete information about your accounts maintained at other web sites, as requested in our “add account” setup forms, and you may not misrepresent your Registration and Account Information. In order for Medicare Suggest to function effectively, you must also keep your Registration and Account Information up to date and accurate. If you do not do this, the accuracy and effectiveness of Medicare Suggest will be affected. You represent that you are a legal owner of, and that you are authorized to provide us with, all Registration and Account Information and other information necessary to facilitate your use of Medicare Suggest.

Your access and use of Medicare Suggest may be interrupted from time to time for any of several reasons, including, without limitation, the malfunction of equipment, periodic updating, maintenance or repair of or other actions that Milliman, in its sole discretion, may elect to take. In no event will Milliman be liable to any party for any loss, cost, or damage that results from any scheduled or unscheduled downtime.

Your sole and exclusive remedy for any failure or non-performance of Medicare Suggest, including any associated software or other materials supplied in connection with such services, shall be for Milliman to use commercially reasonable efforts to effectuate an adjustment or repair of the applicable service.

From time to time, Milliman may include new and/or updated pre-release features and trial use (“Beta” features) in services for your use and which permit you to provide feedback. Milliman will provide you an opportunity to elect to use such Beta features (i.e., to “opt-in”). You understand and agree that your use of Beta features is voluntary and Milliman is not obligated to provide you with any Beta features. Furthermore, if you decide to “opt-in” and use the Beta features, you agree to abide by any rules or restrictions Milliman may place on them. You understand that once you begin using the Beta features, you may be unable to revert back to the earlier version of the same or similar feature. Additionally, if such reversion is possible, you may not be able to return or restore data created within the Beta feature back to the earlier version. The Beta features are provided on an “as is” basis and may contain errors or inaccuracies that could cause failures, corruption or loss of data and/or information from any connected device. You acknowledge and agree that all use of the Beta features is at your sole risk.

## **7. Use With Your Mobile Device**

Use of Medicare Suggest may be available through a compatible mobile device, Internet and/or network access and may require third party software. You agree that you are solely responsible for these requirements, including any applicable changes, updates and fees as well as the terms of your agreement with your mobile device and telecommunications provider. MILLIMAN MAKES NO WARRANTIES OR REPRESENTATIONS OF ANY KIND,

EXPRESS, STATUTORY OR IMPLIED, AS TO: (i) THE AVAILABILITY OF TELECOMMUNICATION SERVICES FROM YOUR PROVIDER AND ACCESS TO MEDICARE SUGGEST AT ANY TIME OR FROM ANY LOCATION; (ii) ANY LOSS, DAMAGE, OR OTHER SECURITY INTRUSION OF THE TELECOMMUNICATION SERVICES; AND (iii) ANY DISCLOSURE OF INFORMATION TO THIRD PARTIES OR FAILURE TO TRANSMIT ANY DATA, COMMUNICATIONS OR SETTINGS CONNECTED WITH MEDICARE SUGGEST.

## **8. Alerts**

Milliman may from time to time provide automatic alerts and voluntary account-related alerts. Automatic alerts may be sent to you following certain changes to your account or information, such as a change in your Registration Information.

You understand and agree that any alerts provided to you through Medicare Suggest may be delayed or prevented by a variety of factors. Milliman may make commercially reasonable efforts to provide alerts in a timely manner with accurate information, but cannot guarantee the delivery, timeliness, or accuracy of the content of any alert. Milliman shall not be liable for any delays, failure to deliver, or misdirected delivery of any alert; for any errors in the content of an alert; or for any actions taken or not taken by you or any third party in reliance on an alert.

## **9. Rights You Grant to Us**

By submitting information, data, passwords, usernames, PINs, other log-in information, materials and other content to Milliman through Medicare Suggest, you are granting Milliman the right to use such content solely for the purpose of providing Medicare Suggest. Milliman may use and store the content in accordance with this Agreement and our Privacy Statement. You represent that you are entitled to submit it to Milliman for use for this purpose, without any obligation by Milliman to pay any fees or be subject to any restrictions or limitations. By using Medicare Suggest, you expressly authorize Milliman to access your Account Information maintained by identified third parties, on your behalf as your agent and representative, and you expressly authorize such third parties to disclose your information to Milliman. Milliman will submit information including usernames and passwords that you provide to log into the Site. You hereby authorize and permit Milliman to use and store information submitted by you to accomplish the foregoing and to configure Medicare Suggest so that it is compatible with the third party sites for which you submit your information. For the limited purpose of providing the Account Information to you as part of Medicare Suggest, you grant Milliman agent status solely to act on your behalf to access such third party sites, retrieve and use your Account Information, and do and perform each thing necessary in connection with such activities, as you could do in person. YOU ACKNOWLEDGE AND AGREE THAT WHEN MILLIMAN IS ACCESSING AND RETRIEVING ACCOUNT INFORMATION FROM THIRD PARTY SITES, MILLIMAN IS ACTING AS YOUR AGENT AND REPRESENTATIVE, AND NOT AS THE AGENT OF OR ON BEHALF OF THE THIRD PARTY THAT OPERATES THE THIRD PARTY SITE. You understand and agree that Medicare Suggest is not sponsored or endorsed by any third parties accessible through Medicare Suggest. Milliman is not responsible for any processing errors or fees or other services-related issues, including those issues that may arise from inaccurate account information.

## **10. Milliman's Intellectual Property Rights**

The contents of Medicare Suggest, including its “look and feel” (e.g., text, graphics, images, logos and button icons), photographs, editorial content, notices, software (including html-based computer programs) and other material are protected under both United States and other applicable copyright, trademark and other laws. The contents of Medicare Suggest belong or are licensed to Milliman or its software or content suppliers. Milliman grants you the right to view and use Medicare Suggest subject to these terms. You may download or print a copy of information for Medicare Suggest for your personal, internal and non-commercial use only. Any distribution, reprint or electronic reproduction of any content from Medicare Suggest in whole or in part for any other purpose is expressly prohibited without our prior written consent. You agree not to use, nor permit any third party to use, the Site or Medicare Suggest or content in a manner that violates any applicable law, regulation or this Agreement.

## **11. Access and Interference**

You agree that you will not:

- Use any robot, spider, scraper, deep link or other similar automated data gathering or extraction tools, program, algorithm or methodology to access, acquire, copy or monitor Medicare Suggest or any portion of Medicare Suggest, without Milliman’s express written consent, which may be withheld in Milliman’s sole discretion;
- Use or attempt to use any engine, software, tool, agent, or other device or mechanism (including without limitation browsers, spiders, robots, avatars or intelligent agents) to navigate or search the services, other than the search engines and search agents available through Medicare Suggest and other than generally available third-party web browsers (such as Microsoft Internet Explorer or Safari);
- Post or transmit any file which contains viruses, worms, Trojan horses or any other contaminating or destructive features, or that otherwise interfere with the proper working of Medicare Suggest;
- Attempt to decipher, decompile, disassemble, or reverse-engineer any of the software comprising or in any way making up a part of Medicare Suggest; or
- Attempt to gain an unauthorized access to any portion of Medicare Suggest.

## **12. Disclaimer of Representations and Warranties**

THE SITES, MEDICARE SUGGEST, INFORMATION, DATA, FEATURES, AND ALL CONTENT AND ALL OTHER SERVICES AND PRODUCTS ASSOCIATED WITH MEDICARE SUGGEST OR PROVIDED THROUGH MEDICARE SUGGEST (WHETHER OR NOT SPONSORED) ARE PROVIDED TO YOU ON AN “AS-IS” AND “AS AVAILABLE” BASIS. MILLIMAN AND ITS THIRD PARTY PROVIDERS, LICENSORS, DISTRIBUTORS OR SUPPLIERS (COLLECTIVELY, “SUPPLIERS”) MAKE NO REPRESENTATIONS OR WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, AS TO THE CONTENT OR OPERATION OF THE SITES OR OF MEDICARE SUGGEST. YOU EXPRESSLY AGREE THAT YOUR USE OF THE SITES AND MEDICARE SUGGEST IS AT YOUR SOLE RISK.

NEITHER MILLIMAN OR ITS SUPPLIERS MAKE ANY REPRESENTATIONS, WARRANTIES OR GUARANTEES, EXPRESS OR IMPLIED, REGARDING THE ACCURACY, RELIABILITY OR COMPLETENESS OF THE CONTENT ON THE SITES OR OF MEDICARE SUGGEST (WHETHER OR NOT SPONSORED), AND EXPRESSLY DISCLAIMS ANY WARRANTIES OF NON-INFRINGEMENT OR FITNESS FOR A

PARTICULAR PURPOSE. NEITHER MILLIMAN OR ITS SUPPLIERS MAKE ANY REPRESENTATION, WARRANTY OR GUARANTEE THAT THE CONTENT THAT MAY BE AVAILABLE THROUGH MEDICARE SUGGEST IS FREE OF INFECTION FROM ANY VIRUSES OR OTHER CODE OR COMPUTER PROGRAMMING ROUTINES THAT CONTAIN CONTAMINATING OR DESTRUCTIVE PROPERTIES OR THAT ARE INTENDED TO DAMAGE, SURREPTITIOUSLY INTERCEPT OR EXPROPRIATE ANY SYSTEM, DATA OR PERSONAL INFORMATION.

SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF CERTAIN WARRANTIES OR THE LIMITATION OR EXCLUSION OF LIABILITY FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES. IN SUCH STATES LIABILITY IS LIMITED TO THE EXTENT PERMITTED BY LAW.

### **13. Limitations on Milliman's Liability**

MILLIMAN SHALL IN NO EVENT BE RESPONSIBLE OR LIABLE TO YOU OR TO ANY THIRD PARTY, WHETHER IN CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY, LIQUIDATED OR PUNITIVE DAMAGES, INCLUDING BUT NOT LIMITED TO LOSS OF PROFIT, REVENUE OR BUSINESS, ARISING IN WHOLE OR IN PART FROM YOUR ACCESS TO THE SITES, YOUR USE OF MEDICARE SUGGEST, THE SITES OR THIS AGREEMENT, EVEN IF MILLIMAN HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS AGREEMENT, MILLIMAN'S LIABILITY TO YOU FOR ANY CAUSE WHATEVER AND REGARDLESS OF THE FORM OF THE ACTION, WILL AT ALL TIMES BE LIMITED TO A MAXIMUM OF \$100.00 (ONE HUNDRED UNITED STATES DOLLARS).

### **14. Your Indemnification of Milliman**

You shall defend, indemnify and hold harmless Milliman and its officers, directors, shareholders, and employees, from and against all claims, suits, proceedings, losses, liabilities, and expenses, whether in tort, contract, or otherwise, that arise out of or relate, including but not limited to attorney's fees, in whole or in part arising out of or attributable to any breach of this Agreement or any activity by you in relation to the Sites or your use of Medicare Suggest.

### **15. Ending your relationship with MedicareSuggest.com**

This Agreement will continue to apply until terminated by either you or Milliman (or any Milliman affiliate/subsidiary) as set out below. If you want to terminate this legal agreement for Medicare Suggest, you may close your account as follows:

To close your account, please click the Delete Account button in your account profile.

Milliman may at any time, terminate its legal agreement with you and access to Medicare Suggest:

a. if you have breached any provision of this Agreement (or have acted in a manner which clearly shows that you do not intend to, or are unable to comply with the provisions of this Agreement);

- b. if Milliman in its sole discretion believes it is required to do so by law (for example, where the provision of the Service to you is, or becomes, unlawful);
- c. for any reason and at any time with or without notice to you; or
- d. immediately upon notice, to the e-mail address provided by you as part of your Registration Information.

You acknowledge and agree that Milliman may immediately deactivate or delete your account and all related information and files in your account and/or prohibit any further access to all files and Medicare Suggest by you. Further, you agree that Milliman shall not be liable to you or any third party for any termination of your access to Medicare Suggest.

## **16. Modifications**

Milliman reserves the right at any time and from time to time to modify or discontinue, temporarily or permanently, the Sites or Medicare Suggest with or without notice. Your use of Medicare Suggest, will constitute your agreement to such change(s). You agree that Milliman shall not be liable to you or to any third party for any modification, suspensions, or discontinuance of Medicare Suggest.

Milliman may modify this Agreement from time to time. Any and all changes to this Agreement may be provided to you by electronic means (i.e., via email or by posting the information on the Sites). In addition, the Agreement will always indicate the date it was last revised. You are deemed to accept and agree to be bound by any changes to the Agreement when you use Medicare Suggest after those changes are posted.

## **17. Governing Law and Forum for Disputes**

Washington state law governs this Agreement without regard to its conflicts of laws provisions.

ANY DISPUTE OR CLAIM RELATING IN ANY WAY TO THE SERVICES OR THESE TERMS OF USE WILL BE RESOLVED BY BINDING ARBITRATION, RATHER THAN IN COURT, except that you may assert claims in small claims court if your claims qualify. The Federal Arbitration Act governs the interpretation and enforcement of this provision; the arbitrator shall apply Washington law to all other matters. Notwithstanding anything to the contrary, any party to the arbitration may at any time seek injunctions or other forms of equitable relief from any court of competent jurisdiction. WE EACH AGREE THAT ANY AND ALL DISPUTES MUST BE BROUGHT IN THE PARTIES' INDIVIDUAL CAPACITY AND NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED CLASS OR REPRESENTATIVE PROCEEDING. BY ENTERING INTO THIS AGREEMENT AND AGREEING TO ARBITRATION, YOU AGREE THAT YOU AND MILLIMAN ARE EACH WAIVING THE RIGHT TO FILE A LAWSUIT AND THE RIGHT TO A TRIAL BY JURY. IN ADDITION, YOU AGREE TO WAIVE THE RIGHT TO PARTICIPATE IN A CLASS ACTION OR LITIGATE ON A CLASS-WIDE BASIS. YOU AGREE THAT YOU HAVE EXPRESSLY AND KNOWINGLY WAIVED THESE RIGHTS.

## **18. Allegations of Copyright and Trademark Infringements; Notification**

Milliman respects the intellectual property rights of others and Milliman asks that users of the Sites and Medicare Suggest do the same. If you believe that your intellectual property is being used on the Sites in a way that constitutes copyright infringement, please provide our

Designated Agent (set forth below) the following information (as required by Section 512(c)(3) of the Digital Millennium Copyright Act):

- A physical or electronic signature of a person authorized to act on behalf of the owner of an exclusive right that is allegedly infringed.
- Identification of the copyrighted work claimed to have been infringed, or, if multiple copyrighted works at a single online site are covered by a single notification, a representative list of such works at that site.
- Identification of the material that is claimed to be infringing or to be the subject of infringing activity and that is to be removed or access to which is to be disabled, and information reasonably sufficient to permit the service provider to locate the material.
- Information reasonably sufficient to permit the service provider to contact the complaining party, such as an address, telephone number, and, if available, an electronic mail address at which the complaining party may be contacted.
- A statement that the complaining party has a good faith belief that use of the material in the manner complained of is not authorized by the copyright owner, its agent, or the law.
- A statement that the information in the notification is accurate, and under penalty of perjury, that the complaining party is authorized to act on behalf of the owner of an exclusive right that is allegedly infringed.

The information specified above must be sent to Milliman's Designated Agent, whose contact information is as follows:

Milliman Inc.

Attention: Susan Puz, Chief Compliance Officer

1301 Fifth Avenue

Suite 3800

Seattle, WA 98101-2646

e-mail: [susan.puz@milliman.com](mailto:susan.puz@milliman.com)

Please note that Section 512(f) of the Digital Millennium Copyright Act may impose liability for damages on any person who knowingly sends meritless notices of infringement. Please do not make false claims.

Any information or correspondence that you provide to Milliman may be shared with third parties, including the person who provided Milliman with the allegedly infringing material.

Upon receipt of a bona fide infringement notification by the Designated Agent, it is Milliman's policy to remove or disable access to the infringing material, notify the user that it has removed or disabled access to the material, and, for repeat offenders, to terminate such user's access to the service.

If you believe that your content should not have been removed for alleged copyright infringement, you may send Milliman's Designated Agent a written counter-notice with the following information:



- Identification of the copyrighted work that was removed, and the location on the Site where it would have been found prior to its removal;
- A statement, under penalty of perjury, that you have a good faith belief that the content was removed as a result of a mistake or misidentification; and
- Your physical or electronic signature, together with your contact information (address, telephone number and, if available, email address).

If a counter-notice is received by the Designated Agent, we may send a copy of the counter-notice to the original complaining party informing that person that it may replace the removed material or cease disabling it in 10 business days. Unless the copyright owner files an action seeking a court order against the user, the removed material may be replaced or access to it restored in 10 to 14 business days or more after receipt of the counter-notice, at our discretion.

## **19. Additional Terms of Use**

If you wish to make use of Medicare Suggest, you must agree to the Terms of Use of our vendors with which we have a relationship. These agreements are below:

### Terms of Use

As a user of EasyEnrollment.net and/or TPA Stream Inc. ("TPA Stream") Services (as further defined below) you agree to the following Terms of use, including any Additional Terms, as defined below, and other terms, conditions, and policies that are incorporated by reference (collectively the "Terms"). By accessing or using the Services in any way, including accessing TPA Stream's web sites or networks, you agree to be bound by the Terms. If you do not agree to the Terms, you may not access or use the Services. If you are agreeing to these Terms on behalf of a company or other entity, you represent that you have the authority to do so, and that such entity agrees to be bound by the Terms.

#### 19.1. The Services

For the purposes of these Terms, the term "Services" means, collectively, the products, services and offerings available from TPA Stream, including but not limited to the use of TPA Stream's web-based software (the "Site") and any Content made available through or with the Services. "Content" means all information and materials, whether in electronic form or otherwise, including but not limited to data, PHI, scripts, algorithms, applications, insights, results, outputs, reports, or software.

#### 19.2. Terms Applicable to Specific Content or Services

The Services available through the Site or otherwise available from TPA Stream may have additional or different terms and conditions, such as use agreements, end user license agreements, or other agreements or terms, that apply to your access or use of such Services, including the terms and conditions applicable to the use of TPA Stream's software and related services (hereinafter "Additional Terms"). In the event of a conflict or inconsistency between the Terms and such Additional Terms, the Additional Terms shall control with respect to your access and use of the particular Service to which such Additional Terms apply.

#### 19.3. Your Rights to Use the Site

Subject to your compliance with the Terms, TPA Stream grants you a non-exclusive, limited, license to access the Site, for its intended use only, and only for your internal business purposes in a manner that is consistent with the Terms.

#### 19.4. Limitations on Use

Your right to use the Services is conditioned upon compliance with the Terms. Unless specifically authorized by the Terms, you may not: (a) copy, modify, or make derivative works of the Services; (b) sublicense, lease, sell, rent, use or otherwise transfer or make available the Services to any third-party; (c) reverse engineer, decompile, disassemble, or attempt to derive the source code or equivalent of Services; (d) use software except as specifically allowed under its applicable terms, or; (e) remove, alter, cover, or distort any copyright, patent or other attribution on or in any of the Services, including the Site or Content available in or related to the Services.

#### 19.5. Ownership and Reservation of Rights

##### 19.5.1 TPA Stream's Retention of Rights

You acknowledge that as between you and TPA Stream, TPA Stream owns all rights title and interests in the Services, including all Intellectual Property therein. Except as expressly granted in the Terms, TPA Stream retains all rights, title, and interests in and to the Services, including all Intellectual Property related thereto, and nothing in the Terms will confer any license to any TPA Stream Intellectual Property by implication, estoppel, or otherwise. "Intellectual Property" means patents, copyrights, trade secrets, trademarks (including trade names, logos and service marks (collectively the "Marks")) and know-how, in each case whether registered or unregistered, and including any application(s) for patents or registration for any of these, and the equivalent on a world-wide basis, and in each case all rights related thereto. You may not use TPA Stream's Marks without the prior review and written approval of TPA Stream.

##### 19.5.2 Your Retention of Rights

Except as expressly granted in the Terms, You retain all right, title, and interests in and to Your Content, including all Intellectual Property related thereto, and nothing in these terms will confer any license to any of Your Content by implication, estoppel, or otherwise. In order to provide you with the Services, you hereby grant TPA Stream a non-exclusive, worldwide, fully paid-up, royalty-free, license to use Your Content, for the sole purpose of allowing TPA Stream to provide Services, and to develop, troubleshoot, improve, and commercially offer the Services. "Your Content" means all information and materials provided by you or a third party in relation to your use of the Services, whether in electronic form or otherwise, including but not limited to data and PHI, used by you or a third party in conjunction with your use of the Services.

##### 19.5.3 Option to provide Feedback

You do not have to provide feedback to TPA Stream on its products or services, such as ideas for improvements, changes, bug fixes, workarounds, and other ideas related to current or future products or services (collectively "Feedback"), but if you do provide us with Feedback we have to be free to use it as it is intended. Therefore, if you provide Feedback, you grant TPA Stream a worldwide, perpetual, royalty-free, irrevocable, nonexclusive, fully sublicensable license to use, reproduce, modify, adapt, translate, publish, publicly perform, publicly display, broadcast, transmit and distribute, the Feedback, for any purpose and in any form, medium, or technology now known or later developed. This includes, without limitation, the right to incorporate or implement the Feedback into any TPA Stream product or service, new or existing, and to market, sell, offer to sell, import, sublicense and distribute the Feedback as incorporated or embedded in any product or service, in any manner, without compensation to you. You warrant that: (a) you have the right and authority to grant this license, and; (b) TPA Stream's exercise of the rights granted pursuant to this license will

not infringe or otherwise violate any third party rights. Feedback may include but is not limited to software, data, and other material that may be provided to TPA Stream related to current or future technologies.

#### 19.5.4 Confidential Information

You may receive or be exposed to certain information, materials, and data related to TPA Stream Services that TPA Stream has designated as or that a reasonable party under the circumstances would consider to be confidential or proprietary ("Confidential Information"). Confidential Information includes without limitation, the Services, including without limitation, Content, software, databases, any TPA Stream API, documentation, specifications, algorithms, and data belonging to TPA Stream or its licensors, and all TPA Stream Intellectual Property Rights. You shall use reasonable care to protect Confidential Information and to prevent any unauthorized use or disclosure of Confidential Information to a third-party. You acknowledge that any unauthorized use of the Services or TPA Stream or its Intellectual Property or unauthorized use or disclosure of Confidential Information will cause TPA Stream irreparable injury for which there are inadequate remedies at law and that, notwithstanding the provisions of Section 16.8, TPA Stream is entitled to equitable relief without the need of posting bond in addition to all other remedies available to it.

#### 19.6. Updates to the Services or Terms

TPA Stream may in its sole discretion modify, discontinue or limit access to the Services, including but not limited to any areas of the Site or access to Content provided on or through the Services without notice. TPA Stream reserves the right to modify the Terms at any time at its sole discretion without notice. The most current Terms may be found by clicking on the Terms of Service link on TPA Stream's website. Your continued use of the Services following any change in the Terms indicates your assent to the then current Terms. TPA Stream may terminate your right to use the Services without notice in the event you fail to comply with the Terms, including without limitation TPA Stream's Acceptable Use Policy in Section 14

#### 19.7. Warranties

##### 19.7.1

You warrant that: (a) you have the authority to enter into the Terms; (b) you will comply with all applicable laws and regulations; (c) you will comply with the Terms; (d) Your Content and the use of Your Content in or with the Services shall not infringe the Intellectual Property of a third-party, and; (e) you have the right and authority to grant to TPA Stream all of the licenses and rights set forth in the Terms

##### 19.7.2

You warrant and agree that you will use the Services in accordance with all applicable Regulations. "Regulations" means, in the United States, collectively, the Privacy and Security Regulations promulgated by the United States Department of Health and Human Services ("HHS") at 45 CFR Parts 160, 162 and 164 that were issued pursuant to the Health Insurance Portability and Accountability Act of 1996, as amended, and the rules and regulations promulgated thereunder ("HIPAA") and pursuant to the provisions of the Health Information Technology for Economic and Clinical Health Act of 2009, as amended, and the rules and regulations promulgated thereunder ("HITECH") and similar laws, rules and regulations that may be promulgated by HHS. In jurisdictions outside the United States, "Regulations" means the regulations and legal requirements that relate to the creation, use, sharing, disclosure, and transmittal of healthcare information, data, and procedures, and patient data and information in such jurisdiction. "Protected Health Information" or "PHI" will have the same meaning as the term "protected health information" in 45 C.F.R. § 160.103,

as applied to the information created, received, maintained or transmitted by you, your users, or another party associated with your use of the Services

#### 19.8. Indemnity

You agree to indemnify and hold harmless TPA Stream, its officers, directors, employees and agents from and against any and all claims, liabilities, damages, losses or expenses, including reasonable attorneys' fees and costs, due to or arising out of your intentional misuse of the Services and/or your fraudulent or intentional misrepresentations as it relates to: (a) Your Content or its use in or with the Services; (b) a breach of any of your warranties under the Terms, and; (c) a claim that Your Content or the use of Your Content with the Services infringement the Intellectual Property of a third party.

#### 19.9. Disclaimers

EXCEPT WHERE EXPRESSLY PROVIDED OTHERWISE, THE SERVICES (INCLUDING BUT NOT LIMITED TO THE SITE), AND ALL CONTENT PROVIDED ON OR THROUGH THE SERVICES, ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS. TPA STREAM EXPRESSLY DISCLAIMS ALL WARRANTIES OF ANY KIND, WHATSOEVER, WHETHER EXPRESS OR IMPLIED, OR OTHERWISE, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT WITH RESPECT TO THE SERVICES AND ALL CONTENT PROVIDED ON OR THROUGH THE SERVICES. TPA STREAM MAKES NO WARRANTY THAT: (A) THE SERVICES WILL BE AVAILABLE ON AN UNINTERRUPTED, TIMELY, SECURE, OR ERROR-FREE BASIS; (B) ANY RESULTS OBTAINED FROM THE USE OF THE SERVICES OR ANY CONTENT PROVIDED ON OR THROUGH THE SITE WILL BE ACCURATE OR RELIABLE; (C) THE SERVICES OR CONTENT WILL MEET YOUR REQUIREMENTS; OR (D) THE QUALITY OF ANY SERVICES OR CONTENT PURCHASED OR OBTAINED BY YOU ON OR THROUGH THE SERVICES WILL MEET YOUR EXPECTATIONS. ANY CONTENT ACCESSED, DOWNLOADED OR OTHERWISE OBTAINED ON OR THROUGH THE USE OF THE SITE IS USED AT YOUR OWN DISCRETION AND RISK. YOU ARE RESPONSIBLE FOR BACKING UP YOUR OWN DATA AND CONTENT, INCLUDING ANY THIRD PARTY CONTENT RELATED TO YOUR USE OF THE SERVICES AND TPA STREAM SHALL HAVE NO RESPONSIBILITY FOR ANY DAMAGE OR LOSS TO ANY SUCH CONTENT OR DAMAGE OR LOSS TO YOUR COMPUTER SYSTEM OR LOSS OF DATA THAT RESULTS FROM THE DOWNLOAD OR USE OF CONTENT. TPA STREAM RESERVES THE RIGHT TO MAKE CHANGES OR UPDATES TO, AND MONITOR THE USE OF, THE SERVICES AND CONTENT PROVIDED ON OR THROUGH THE SITE AT ANY TIME WITHOUT NOTICE.

#### 19.10. Limitation of Liability

IN NO EVENT SHALL TPA STREAM BE LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES, OR DAMAGES FOR LOSS OF PROFITS, REVENUE, DATA, USE OF DATA, INCURRED BY YOU OR ANY THIRD PARTY, WHETHER IN AN ACTION IN CONTRACT OR TORT, ARISING FROM YOUR ACCESS TO, OR INTENTIONAL MISUSE OF, THE SERVICES OR ANY CONTENT PROVIDED ON OR THROUGH THE SERVICES.

#### 19.11. Exclusions and Limitations

SOME JURISDICTIONS DO NOT ALLOW THE DISCLAIMER OR EXCLUSION OF CERTAIN WARRANTIES OR THE DISCLAIMER, EXCLUSION OR LIMITATION OF CERTAIN LIABILITIES. TO THE EXTENT THAT ANY ARE HELD TO BE LEGALLY INVALID, ANY SUCH DISCLAIMER, EXCLUSION OR LIMITATION SET FORTH IN THESE TERMS OF USE, INCLUDING THOSE SET

FORTH IN SECTIONS 9 AND 10, SHALL NOT APPLY, HOWEVER THE PARTIES AGREE THAT ALL OTHER TERMS SHALL REMAIN IN FULL FORCE AND EFFECT TO THE FULLEST EXTENT AVAILABLE UNDER APPLICABLE LAW.

#### 19.12. Account Information from Third Party Sites

You may direct TPA Stream to retrieve your own information maintained online by third-parties with which you have a customer relationships ("Account Information"). TPA Stream works with one or more online service providers to access this Account Information. TPA Stream makes no effort to review the Account Information for any purpose, including but not limited to accuracy, legality or non-infringement. TPA Stream is not responsible for the products and services offered by or on third-party sites.

TPA Stream cannot always foresee or anticipate technical or other difficulties which may result in failure to obtain data or loss of data, personalization settings or other service interruptions. TPA Stream cannot assume responsibility for the timeliness, accuracy, deletion, non-delivery or failure to store any user data, communications or personalization settings. For example, when displayed through the Services, Account Information is only as fresh as the time shown, which reflects when the information is obtained from such sites. Such information may be more up-to-date when obtained directly from the relevant sites.

#### 19.13. Rights You Grant to TPA Stream

By using the Services, you expressly authorize TPA Stream to access your Account Information maintained by identified third parties, on your behalf as your agent. When you use the Easy Enrollment feature of the Services, you will be directly connected to the website for the third party you have identified. TPA Stream will submit information including usernames and passwords that you provide to log you into the site. You hereby authorize and permit TPA Stream to use and store information submitted by you to the Services (such as account passwords and user names) to accomplish the foregoing and to configure the Service so that it is compatible with the third party sites for which you submit your information. For purposes of this Agreement and solely to provide the Account Information to you as part of the Service, you grant TPA Stream a limited power of attorney, and appoint TPA Stream as your attorney-in-fact and agent, to access third party sites, retrieve and use your Account Information with the full power and authority to do and perform each thing necessary in connection with such activities, as you could do in person. You acknowledge and agree that when TPA Stream is accessing and retrieving Account Information from third party sites, TPA Stream is acting as your agent, and not as the agent of or on behalf of the third party. You understand and agree that the Service is not sponsored or endorsed by any third parties accessible through the Service.

#### 19.14. Privacy Policy

TPA Stream respects your privacy and has developed a policy to address privacy concerns. For more information, please see our Privacy Policy.

#### 19.15. Acceptable Use Policy

In order to preserve the quality and security of the Services, and out of respect for other users, you agree not to: (a) access or use the Site in any manner that could damage, disable, overburden, or impair any TPA Stream accounts, computer systems, networks, or other users of the Services; (b) attempt to gain unauthorized access to any parts of the Site or any TPA Stream accounts, computer systems or networks; (c) interfere or attempt to interfere with the proper working of the Site or any TPA Stream accounts, computer systems or networks, or; (d) use any robot, spider, scraper or other automated means to access the Site or any TPA Stream accounts, computer systems or networks

without TPA Stream's express written permission. You further agree not to use the Site in a manner that: (a) is false or misleading; (b) is defamatory, derogatory, degrading or harassing of another or constitutes a personal attack; (c) invades another's privacy or includes, copies or transmits another's confidential, sensitive or personal information; (d) promotes racism, hatred or harm against any group or individual; (e) is obscene or not in good taste; (f) violates or infringes or promotes the violation or infringement of another's rights, including Intellectual Property Rights; (g) you do not have the right and authority to do so; (h) violates or promotes the violation of any applicable laws or regulations; (i) contains a solicitation of funds, goods or services, or promotes or advertises goods or services; or (j) introduces any virus, Trojan horse, or other component designed to limit or harm the functionality of a network or computer. TPA Stream may report violators to the relevant authorities and may act under the fullest extent of applicable laws to enforce these terms. TPA Stream retains the right to immediately terminate access to the Services without notice if in its sole determination it believes such termination is necessary to enforce the Terms, for the proper operation or security of the Services, or for the protection of its network, data, Site, the Intellectual Property rights of TPA Stream or a third party.

## 19.16. Security and Password Management

If any of the Services require you to open an account, you must complete the registration process by providing us with current, complete and accurate information as required by the applicable registration form. You may also be required to choose a password and a user name. Access to and use of password protected or secure areas of the Site are restricted to authorized users only. You agree not to share your password(s), account information, or access to the Site with any other person. You are responsible for maintaining the confidentiality of passwords and account information, and you are responsible for all activities that occur through the authorized use of your passwords or accounts. You agree to notify TPA Stream immediately of any use of your passwords or accounts that you did not authorize or that is not authorized by the Terms.

## 19.17. General Terms

### 19.17.1 Notices

Official notices must be delivered by email to TPA Stream, at [support@tpastream.com](mailto:support@tpastream.com), Attn: Legal Department. Such notices will be effective upon delivery as reasonably verified by the delivery service.

### 19.17.2 Force Majeure

Neither party will be liable to the other for any failure or delay in performance of an obligation, other than obligations to make payments, arising out of any event or circumstance beyond the reasonable control of that party, including without limitation acts of God, earthquakes, fires, floods, power outages, interruptions in telecommunication services, strikes, and governmental actions.

### 19.17.3 Assignment

You may not assign or transfer any rights under the Terms, including your licenses to software, including in relation to the sale of a practice or business, to any third party without TPA Stream's prior written consent. Any unauthorized attempt to do so will be null and void.

### 19.17.4 Export Obligations

You may not export, directly or indirectly; any of the Services in violation of any U.S. export laws or regulations.

### 19.17.5 Waiver and Severance

TPA Stream's failure to enforce any provision of the Terms shall not constitute a waiver of such right. If any term of these Terms is found to be unenforceable, that term is to be modified to make that term legal and enforceable, and the balance of the Terms will continue in full force and effect, such change to be made in a manner to maximize the enforcement of the remaining terms.

#### 19.17.6 Minimum Age Requirement

You must be at least 18 years old or older to use the Services (including the Site).

#### 19.17.7 Entire Agreement

The Terms, along with any Additional Terms, represent the final agreement between the parties regarding the subject matter, and supersede all prior or contemporaneous agreements, whether written or oral.

#### 19.17.8 Alternative Dispute Resolution and Choice of Law

Any dispute arising from the Terms or the Services, or otherwise between the parties, that is not resolved within forty five (45) days from a notice of such dispute to the other party, shall be addressed by convening an informal telephonic meeting between the most senior executive representative of each party, within seven (7) days from the end of the 45 day notice period. If the dispute cannot be resolved during such meeting, and after thirty (30) days written notice of such failure to reach a resolution, if such dispute is not resolved within such 30-day period, the parties agree to submit and settle the dispute by arbitration administered by the American Arbitration Association Alternative Dispute Resolution Service under its Commercial Arbitration Rules. The arbitration shall proceed before a panel of three (3) arbitrators, with one arbitrator selected by each party and the third being selected by mutual agreement of the parties. The arbitration shall proceed in Cleveland, OH, under the laws of the State of Ohio without regard to principles of conflicts of law. Judgment on any award rendered by the panel of arbitrators may be entered in any court of competent jurisdiction, located in Cleveland or Cuyahoga County, OH, and the Parties hereby consent to personal jurisdiction and venue therein. Any action relating to this Agreement must be commenced within one (1) year after the date upon which the cause of action accrued, or within the statute of limitations provided by the above agreed upon choice of law, whichever is less. The parties hereby waive any claim of lack of jurisdiction or inconvenient forum. **BOTH PARTIES WAIVE THE RIGHT TO A TRIAL BY JURY IN ANY LEGAL ACTION BY OR AGAINST EITHER PARTY RELATED TO THE SERVICES OR THE TERMS. THE PREVAILING PARTY IN ANY LEGAL ACTION SHALL BE ENTITLED TO RECOVER REASONABLE ATTORNEY'S FEES AND COSTS.** To the extent allowed by law, you and TPA Stream agree that any proceedings to resolve or litigate any dispute, whether in arbitration, in court, or otherwise, will be conducted solely on an individual basis, and that neither you nor TPA Stream will seek to have any dispute heard as a class action, a representative action, a collective action, a private attorney-general action, or in any proceeding in which you or TPA Stream acts or proposes to act in a representative capacity. You and TPA Stream further agree that no proceeding will be joined, consolidated, or combined with another proceeding without the prior written consent of you, TPA Stream, and all parties to any such proceeding. The provisions of this section are to be enforced to the maximum extent legally available.