

Terms & Conditions of Service

Parrot.MD Inc. (the “**Company**” or “**We**”) provides a tech-enabled online platform and related services (“**Services**”) that allows authorized hospital administrator(s) (“**Hospital Administrators**”) to post and award their available shifts for call obligations (“**Call Obligations**”) to third party credentialed physicians who are platform members authorized to claim and cover such Call Obligations based on their medical discipline and geographic availability (“**POD Members**”).

These Terms & Conditions of Service govern the use of the Services offered by the Company including, but not limited to, Services offered through all websites and mobile applications.

Our Privacy Policy and End User License Agreement, and any other policies, rules or guidelines that may be applicable to offers or features of the Services and are incorporated into these Terms & Conditions of Service, hereinafter referred to as this “**Agreement**.”

YOUR USE OF THE SERVICES CONSTITUTES YOUR ACCEPTANCE TO BE LEGALLY BOUND BY ALL OF THE TERMS AND CONDITIONS IN THIS AGREEMENT.

IF YOU DO NOT AGREE TO THESE TERMS, PLEASE DO NOT USE THE SERVICE. IF YOU OBJECT TO ANYTHING IN THIS AGREEMENT YOU ARE NOT PERMITTED TO USE THE SERVICES.

1. ACCOUNT REGISTRATION, PASSWORD, AND SECURITY.

You will be required to register for an account to use the Services. If You are a Hospital Administrator, You must represent a duly licensed and credentialed medical facility (“**Hospital**”) and provide the medical services required for the posted Call Obligation(s) and You must be able to enter into legally binding contracts on behalf of such Hospital. If you are a POD Member, you must be duly licensed and credentialed to practice medicine at the location and in the medical discipline required for such Call Obligation(s) and You must be at least 18 years old and must be able to enter into legally binding contracts. Your account username may not include the name of another person with the intent to impersonate that person or be offensive or obscene. Your account username and password are personal to you. You will be responsible for the confidentiality and use of your username and password, and for all activities (including commercial transactions) that are conducted through your account. You may not transfer or sell access to your account. We will not be liable for any harm related to disclosure of your username or password or the use by anyone else of your username or password. You may not use another user's account or use your account for the benefit of another individual. You will immediately notify us in writing if you discover any unauthorized use of your account or other account-related security breach. We may require you to change your username and/or password if we believe your account is no longer secure or if we receive a complaint that your username violates someone else's rights. You will have no ownership in your account or your username. We may refuse registration, cancel an account or deny access to the Services for any reason.

If You are a Hospital Administrator, You will be required to participate in a one time, one hour in-person training session. To the extent practicable, Hospital Administrators will post three (3) months of Call Obligations at a time.

When opening an account, you must provide complete and accurate billing information. If your registration or payment information changes at any time, you must promptly update your details in your Account. You acknowledge that the Company may charge any one of your payment methods on file for amounts you owe us or other parties, costs we incur or other losses arising out of your violation of this Agreement. The parties will mutually agree on a payment process. The Company will invoice you for services on a bi-monthly basis. Payment terms are Net 15 days.

The Company reserves the right to suspend accounts temporarily or permanently with incomplete or inaccurate information.

For more information regarding the information that we collect from you and how we use it, please consult our [Privacy Policy](#).

2. DESCRIPTION OF SERVICES

The Services are provided through a platform that allows POD Members to accept Call Obligations made available by Hospital Administrator(s). The decision to make a Call Obligation available is entirely within the discretion of a Hospital Administrator and the decision to accept a Call Obligation is entirely within the discretion of a POD Member. For purposes of this Agreement, when posting an available Call Obligation, a registered Hospital Administrator will be deemed to be the “**Posting Party**” and when accepting an available Call Obligation, a POD Member will be deemed to be the “**Claiming Party**.”

A Posting Party will offer the Call Obligation and indicate the amount of compensation the Posting Party will pay a Claiming Party to accept and work the Call Obligation (the “**Call Obligation Payment**”). The Claiming Party must be authorized to perform the work at the location of the Call Obligation in order to be eligible to accept the Call Obligation. By listing a Call Obligation and Call Obligation Payment, a Posting Party is making a binding offer to a Claiming Party who accepts the Call Obligation. When a Claiming Party accepts the Call Obligation, the Posting Party is contractually bound to provide the Call Obligation and make the Call Obligation Payment to the Claiming Party and the Claiming Party is contractually bound to work the Call Obligation.

Once a Call Obligation is accepted by the Claiming Party, it is Claiming Party’s obligation to either personally fulfill the work obligations of that Call Obligation or find another POD Member to do so. Any failure of a Claiming Party to fulfill such obligation shall result in termination of such Claiming Party’s access to the Services.

3. OBLIGATIONS OF THE PARTIES

The Company’s sole obligation is to provide the Services in accordance with the terms and conditions of the Agreement. The Company does not guarantee that Call Obligations will be made available by Offering Parties or that any offered Call Obligation will be accepted by Accepting Parties. The Company has no control over and does not guarantee the quality or performance of any Claiming Party or that the Claiming Party will complete its obligations to work the Call Obligation.

The Posting Party represents and warrants (i) they are authorized to offer and transfer the Call Obligation to the Claiming Party, and (ii) there are no policies, procedures or regulations required of the facility where the Call Obligation is located that would prohibit such offer or transfer of the Call Obligation. When a Claiming Party accepts the Call Obligation, the Posting Party is contractually bound to provide the Call Obligation and make the Call Obligation Payment to the Claiming Party.

The Claiming Party represents and warrants they are duly licensed and credentialed to practice medicine at the location of any Call Obligation accepted by them and in the medical discipline required for such Call Obligation. When a Claiming Party accepts the Call Obligation, the Claiming Party is contractually bound to work the Call Obligation or, in the event the Claiming Party is unable to fulfill the Call Obligation, find another individual to undertake such Call Obligation that is duly licensed and credentialed to practice medicine at the location and in the medical discipline required for such Call Obligation. The Claiming Party acknowledges and agrees that they are solely responsible for (i) any consultations, diagnoses and treatment made as a result of the Call Obligation and (ii) compliance with all policies, procedures and regulations required of the facility where the Call Obligation is located. **THE CLAIMING PARTY IS RESPONSIBLE FOR ALL TAX REPORTING AND PAYMENT OBLIGATIONS RELATED TO ANY CALL OBLIGATION PAYMENT RECEIVED PURSUANT TO THIS AGREEMENT. THE COMPANY IS MERELY OFFERING A SERVICE**

FOR INDEPENDENT PARTIES TO COMMUNICATE AND CONDUCT MARKET-BASED TRANSACTIONS FOR CALL OBLIGATIONS. IN NO EVENT SHALL POSTING PARTY OR CLAIMING PARTY BE CONSIDERED AN EMPLOYEE, INDEPENDENT CONTRACTOR OR AGENT OF THE COMPANY. THE COMPANY IS NOT REQUIRED AND WON'T BE ISSUING A FORM 1099 TO THE CLAIMING PARTY.

Hospital Administrators agree it is a material term and condition of this Agreement that during the Term of this Agreement and for a period of twelve (12) months thereafter Hospital Administrator shall not solicit, assist someone else to solicit, or otherwise induce any POD Member to perform the Services or similar services that are covered under this Agreement to perform the same or similar services outside of this Agreement. This non-solicitation provision expressly does not apply to Hospital Administrator if Hospital Administrator extends and POD Member accepts an offer of full time employment. This paragraph survives the performance of Services as set forth hereunder and any party who breaches this paragraph shall be liable for the attorneys' fees of a nonbreaching party in the enforcement of this paragraph.

4. FEES AND PAYMENTS

The Company will charge the Hospital a fee equal to fifteen percent (15%) of the Call Payment Obligation for using the Services ("**Service Fees**") plus a developer implementation fee based on facility size. The Company may in its sole and absolute discretion change its Service Fees upon notice to the Posting Party. Any applicable Service Fees will be disclosed to you prior to listing or accepting a Call Obligation. The Company may charge and/or retain Service Fees if you do not fulfil your contractual obligations under this Agreement.

Call Obligation Payments received from a Posting Party for a Call Obligation accepted via the Services will be directly credited to the Claiming Party. The Company will not retain or have access to Call Obligation Payments.

All payments from the Posting Party are due and payable upon completion of assigned Call Obligation(s). A Posting Party must pay the full agreed amount which includes the Call Obligation Payment and any applicable Service Fees.

A Posting Party's obligation to pay for a Call Obligation is satisfied when the Claiming Party has received the Call Obligation Payment, and the Company has received the applicable Service Fees.

If a client requires an orientation shift(s) of any Company member(s), the client will be invoiced from the Company for those orientation shifts at the agreed hourly shift rate between the parties.

5. ACCEPTABLE USE OF THE SERVICE.

We grant you a revocable, non-exclusive, non-transferable, limited license to view or use the Services as permitted by these Terms, as a condition precedent, you agree that you will not:

- Submit or communicate through the Services any patient-related or protected health information;
- Offer or solicit any Call Obligation or Call Obligation Payment as a means of referring or inducing an individual to or from each other for the furnishing of any item or service reimbursed under the Medicare program, any State Medicaid program, TRICARE, any health care program of the Department of Veterans Affairs, the Maternal and Child Health Services Block Grant program, any federally-funded state social services block grant program, or the State Children's Health Insurance Program or any similar program;
- Submit any software or other materials that contain any viruses, worms, Trojan horses, defects, date bombs, time bombs or other items of a destructive nature;

- Engage in any activity that may cause the Services to be interrupted, damaged or impaired in any way;
- Accessing third party data using the Services, where authorized access has not been granted;
- Fail to fulfill your contractual obligations regarding the offer or acceptance of a Call Obligation;
- Modify, adapt, sub-license, translate, sell, reverse engineer, decompile or disassemble any portion of the Services or otherwise attempt to derive any source code or underlying ideas or algorithms of any part of the Services;
- Remove any copyright, trademark or other proprietary rights notices contained on/in the Services;
- Take any action that imposes or may impose (in our sole discretion) an unreasonable or disproportionately large load on our infrastructure;
- Reproduce, copy, display, publicly perform, distribute or create derivative works of the Services;
- Use the Services in an attempt to, or in conjunction with, any device, program or service designed to circumvent any technological measure that effectively controls access to, or the rights in, the Services and/or Proprietary Material as defined Section 7 of this Agreement, in any way including, without limitation, by manual or automatic device or process, for any purpose;
- Use the Services for any unlawful purpose;
- Probe, scan, or test the vulnerability of any system or network used to access data or services related to the Services;
- Breach or otherwise circumvent any security or authentication measures;
- Interfere with or disrupt any user, host, or network, for example by sending a virus, overloading, flooding, spamming, or mail-bombing any part of the Services;
- Access, search, or create accounts for the Services by any means other than our publicly supported interfaces (for example, "scraping" or creating accounts in bulk);
- Send unsolicited communications, promotions or advertisements, or spam;
- Send altered, deceptive or false source-identifying information, including "spoofing" or "phishing";
- Submit (a) any content or information that is unlawful, fraudulent, libelous, defamatory, or otherwise objectionable, or infringes our or any third party's intellectual property or other rights; (b) any non-public information about companies without authorization; or (c) any advertisements, solicitations, chain letters, pyramid schemes, surveys, contests, investment opportunities or other unsolicited commercial communication;
- Violate the privacy or infringe the rights of others;
- Harvest or collect information about Services users;
- Use or derive data to determine the Services' functionality, user information, aggregate statistics on the Services' performance, or the performance of third party data integration partners of the Company;
- Use the Services for any commercial use;
- Link to any portion of the Services other than the URL assigned to the home page of our Site or a URL for user storage located within the Apps;
- "Frame" or "mirror" any part of the Services;
- Use any robot, spider, offline reader, search/retrieval Services or other manual or automatic device, tool, or process to retrieve, index, data mine or in any way reproduce or circumvent the navigational structure or presentation of the Services or its contents.

This license is expressly conditioned on your preexisting agreement to comply with, and your actual compliance with, each of the provisions described in this Agreement. This license exists only so long as you strictly comply with each of the provisions described in this section. You understand and agree that the Services is provided "as-is" without any warranty of any kind. You understand that the Company will not be responsible for the action of any authorized users.

You represent, warrant and covenant that you, in performance of its obligations and/or exercise of its rights pursuant to this Agreement, will comply with all applicable laws and regulations.

6. TERMINATION AND SUSPENSION

The Company may terminate or suspend your right to use the Services at any time for any or no reason by

providing you with written or email notice of such termination, and termination will be effective immediately upon delivery of such notice.

Without limitation, the Company may terminate or suspend your right to use the Services if you breach any term of this Agreement or any policy of the Company posted through the Services from time to time, or if the Company otherwise finds that you have engaged in inappropriate and/or offensive behavior. If the Company terminates or suspends your account for any reason, you are prohibited from registering and creating a new account under your name, a fake or borrowed name, or the name of any third party. In addition to terminating or suspending your account, the Company reserves the right to take appropriate legal action, including without limitation pursuing civil, criminal, and injunctive redress.

Even after your right to use the Services is terminated or suspended, this Agreement will remain enforceable against you.

You may terminate this Agreement at any time by ceasing all use of the Services. All sections which by their nature should survive the expiration or termination of this Agreement shall continue in full force and effect subsequent to and notwithstanding the expiration or termination of this Agreement.

7. SERVICES AVAILABILITY

The Company reserves the right at any time to modify or discontinue, temporarily or permanently, the website, the Services or any part of the website or Services with or without notice for any reason. The Company performs regularly-scheduled maintenance. The website, mobile application or our Services may be temporarily unavailable during maintenance periods. You agree that your subscription to the Service and acceptance of this Agreement are not contingent on the delivery of any future functionality or features.

8. OWNERSHIP OF DATA, CONTENT AND GRANT OF CONDITIONAL LICENSE.

All text, graphics, editorial content, data, formatting, graphs, designs, HTML, look and feel, photographs, music, sounds, images, software, videos, designs, typefaces and other content (collectively "**Proprietary Material**") that authorized users see or read through the Services is owned by the Company. Proprietary Material is protected in all forms, media and technologies now known or hereinafter developed. The Company owns all Proprietary Material, as well as the coordination, selection, arrangement and enhancement of such Proprietary Materials as a Collective Work under the United States Copyright Act, as amended. The Proprietary Material is protected by the domestic and international laws of copyright, patents, and other proprietary rights and laws. Users may not copy, download, use, redesign, reconfigure, or retransmit anything from the Services without the Company's express prior written consent and, if applicable, the holder of the rights to the User Generated Content. Any use of such Proprietary Material, other than as permitted therein, is expressly prohibited without the prior permission of the Company.

We may change the Proprietary Material and features of the Services at any time. Any use of the Services or Proprietary Material by you or anyone acting on your behalf that does not strictly comply with each and every provision in this section exceeds the scope of the license granted to you herein, constitutes unauthorized reproduction, display, or creation of unauthorized derivative versions of the Services and Proprietary Material, and infringes our copyrights and other rights in the Services and Proprietary Material. You will not acquire any ownership rights by using the Services or the Proprietary Material.

The registered and unregistered trademarks, logos and service marks displayed in the Proprietary Material or Services are owned by us or our licensors. You may not use our trademarks, logos and service marks in any way without our prior written permission.

Except as expressly set forth in this Agreement, the Company will own and retain all right, title and interest in and to (i) the Services, including all software, improvements, enhancements or modifications thereto, and (ii)

all intellectual property rights related to all of the foregoing. "**Intellectual Property Rights**" means current and future worldwide rights under patent, copyright, trade secret, trademark, moral rights, and other similar rights.

9. LINKS TO OTHER WEBSITES

Links (such as hyperlinks) from the Services to other sites on the Web do not constitute the endorsement by the Company of those sites or their content. Such links are provided as an information service, for reference and convenience only. The Company does not control any such sites, and is not responsible for their content. The existence of links on the Services to such websites (including without limitation external websites that are framed by the Services as well as any advertisements displayed in connection therewith) does not mean that the Company endorses any of the material on such websites, or has any association with their operators. It is your responsibility to evaluate the content and usefulness of the information obtained from those sites. The use of any site is governed by the terms and conditions of use and privacy policy of that site. You hereby agree to hold the Company harmless from any liability that may result from the use of links that may appear on the Services. By accessing these third party sites you do so at your own risk.

10. PROPER USE OF SITE

Use of Site. The Services are intended to be accessed and used only for non-time-critical functions, and information and/or the applicable services as designated by a particular product. Our aim is to provide a reliable and readily available Services, however, the Services, including certain features thereof (e.g. remote access and mobile notifications) are not intended or guaranteed to be reliable or available 100% of the time. In addition, some features of the Services may be subject to sporadic interruptions and failures for reasons beyond the Company control, including but not limited to Wi-Fi intermittency, service provider uptime, mobile notifications and carriers. We cannot and do not guarantee that you will receive notifications or have access to the Services in any given time or at all.

System Requirements. Certain features of the Services may not be accessible without: (i) a working Wi-Fi network that is positioned to communicate reliably with the applicable Product; (ii) a registered Services account; (iii) mobile clients such as a supported phone or tablet (required for some functionality); (iv) always-on broadband Internet access in your home; and (v) other system elements that may be specified by the Company. It is your responsibility to ensure that you have all required system elements and that they are compatible and properly configured. You accept that the Services may not work as described if the requirements and compatibility have not been met.

11. COPYRIGHT COMPLAINTS AND COPYRIGHT AGENT

The Company respects the intellectual property of others, and expects Users to do the same. If you believe, in good faith, that any materials provided on or in connection with the Services infringe upon your copyright or other intellectual property right, please send the following information to the Company's Copyright Agent via email at tim@parrot.md.

- A description of the copyrighted work that you claim has been infringed, including the URL (Internet address) or other specific location on the Service where the material you claim is infringed is located. Include enough information to allow the Company to locate the material, and explain why you think an infringement has taken place;
- A description of the location where the original or an authorized copy of the copyrighted work exists - for example, the URL (Internet address) where it is posted or the name of the book in which it has been published;
- Your address, telephone number, and e-mail address;
- A statement by you that you have a good faith belief that the disputed use is not authorized by the copyright owner, its agent, or the law;

- A statement by you, made under penalty of perjury, that the information in your notice is accurate, and that you are the copyright owner or authorized to act on the copyright owner's behalf; and
- An electronic or physical signature of the owner of the copyright or the person authorized to act on behalf of the owner of the copyright interest.

12. CONFIDENTIALITY

You acknowledge that Confidential Information (as hereinafter defined) is a valuable, special and unique asset of the Company and agree that you will not disclose, transfer, use (or seek to induce others to disclose, transfer or use) any Confidential Information for any purpose other than disclosure to your authorized employees and agents who are bound to maintain the confidentiality of Confidential Information. You shall promptly notify the Company in writing of any circumstances which may constitute unauthorized disclosure, transfer, or use of Confidential Information. You shall use best efforts to protect Confidential Information from unauthorized disclosure, transfer or use. You shall return all originals and any copies of any and all materials containing Confidential Information to the Company upon termination of this Agreement for any reason whatsoever. The term "Confidential Information" shall mean any and all of the Company's trade secrets, confidential and proprietary information and all other information and data of the Company that is not generally known to the public or other third parties who could derive value, economic or otherwise, from its use or disclosure. Confidential Information shall be deemed to include technical data, know-how, research, product plans, products, services, customers, markets, software, developments, inventions, processes, formulas, technology, designs, drawings, engineering, hardware configuration information, marketing, finances or other business information disclosed directly or indirectly in writing, orally or by drawings or observation.

Company will implement and maintain reasonable administrative, physical and technical safeguards that are designed to prevent any unauthorized use, access, processing, destruction, loss, alteration, or disclosure of any of your data may be held or accessed by Company. Company agrees that it will not sell, disclose, transfer, share or rent any of your data under any circumstances except, in each case, to an affiliate in connection with the Services.

13. DISCLAIMER OF WARRANTIES

YOUR USE OF THE SERVICES IS AT YOUR SOLE RISK. THE SERVICES ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS AND WITH ALL FAULTS AND DEFECTS **WITHOUT WARRANTY OF ANY KIND**. TO THE MAXIMUM EXTENT PERMITTED UNDER APPLICABLE LAW, THE COMPANY, ON ITS OWN BEHALF AND ON BEHALF OF ITS AFFILIATES AND ITS AND THEIR RESPECTIVE LICENSORS AND SERVICE PROVIDERS, EXPRESSLY DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, WITH RESPECT TO THE SERVICES, INCLUDING WITHOUT LIMITATION ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT, AND WARRANTIES THAT MAY ARISE OUT OF COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OR TRADE PRACTICE. WITHOUT LIMITATION TO THE FOREGOING, THE COMPANY PROVIDES NO WARRANTY AND MAKES NO REPRESENTATION OF ANY KIND THAT THE SERVICES WILL MEET YOUR REQUIREMENTS, ACHIEVE ANY INTENDED RESULTS, OPERATE WITHOUT INTERRUPTION, MEET ANY PERFORMANCE OR RELIABILITY STANDARDS OR BE ERROR FREE OR THAT ANY ERRORS OR DEFECTS CAN OR WILL BE CORRECTED.

THE CLAIMING PARTY IS SOLELY RESPONSIBLE FOR ANY MEDICAL CONSULTATIONS, DIAGNOSES, AND/OR TREATMENT MADE AS A RESULT OF THE CALL OBLIGATION AND COMPLIANCE WITH ALL POLICIES, PROCEDURES AND REGULATIONS REQUIRED OF

THE FACILITY WHERE THE CALL OBLIGATION IS LOCATED. THE COMPANY DISCLAIMS ANY RESPONSIBILITY OR LIABILITY FOR ANY MEDICAL CONSULTATIONS, DIAGNOSES, AND/OR TREATMENT MADE.

SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF OR LIMITATIONS ON IMPLIED WARRANTIES OR THE LIMITATIONS ON THE APPLICABLE STATUTORY RIGHTS OF A CONSUMER, SO SOME OR ALL OF THE ABOVE EXCLUSIONS AND LIMITATIONS MAY NOT APPLY TO YOU. THE COMPANY INTENDS THAT THESE EXCLUSIONS AND LIMITATIONS APPLY TO THE FULLEST EXTENT ALLOWED BY LAW.

14. LIMITATION OF LIABILITY

UNDER NO CIRCUMSTANCES WILL THE COMPANY, ITS AFFILIATES, ITS LICENSORS, OR ANY OF SUCH PARTIES' EMPLOYEES, OFFICERS, DIRECTORS, OWNERS, OR AGENTS BE LIABLE TO YOU FOR ANY LOSS OR DAMAGES OF ANY KIND (INCLUDING, WITHOUT LIMITATION, FOR ANY DIRECT, INDIRECT, ECONOMIC, EXEMPLARY, SPECIAL, PUNITIVE, INCIDENTAL OR CONSEQUENTIAL LOSSES OR DAMAGES) THAT ARE DIRECTLY OR INDIRECTLY RELATED TO THE MOBILE APPLICATION OR SERVICES INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOST PROFITS, LOSS OF GOODWILL, LOSS OF DATA, WORK STOPPAGE, ACCURACY OF RESULTS, COMPUTER FAILURE OR MALFUNCTION, OR IMPROPER MEDICAL TREATMENT, CARE OR DIAGNOSIS (INCLUDING, BUT NOT LIMITED TO, MEDICAL MALPRACTICE), EVEN IF FORESEEABLE OR EVEN IF THE COMPANY, ITS AFFILIATES, ITS LICENSORS, OR ANY OF SUCH PARTIES' EMPLOYEES, OFFICERS, DIRECTORS, OWNERS, OR AGENTS HAVE BEEN ADVISED OF OR SHOULD HAVE KNOWN OF THE POSSIBILITY OF SUCH DAMAGES, WHETHER IN AN ACTION OF CONTRACT, NEGLIGENCE, STRICT LIABILITY OR TORT (INCLUDING, WITHOUT LIMITATION, WHETHER CAUSED IN WHOLE OR IN PART BY NEGLIGENCE, ACTS OF GOD, TELECOMMUNICATIONS FAILURE, OR THEFT OR DESTRUCTION OF THE MOBILE APPLICATION). IN NO EVENT WILL THE COMPANY, ITS AFFILIATES, ITS LICENSORS, OR ANY OF SUCH PARTIES' EMPLOYEES, OFFICERS, DIRECTORS, OWNERS, OR AGENTS BE LIABLE TO YOU OR ANYONE ELSE FOR LOSS, DAMAGE OR INJURY.

SOME STATES DO NOT ALLOW THE EXCLUSION OR LIMITATION OF INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THE ABOVE LIMITATION OR EXCLUSION MAY NOT APPLY TO YOU. THE COMPANY INTENDS THAT THESE EXCLUSIONS AND LIMITATIONS APPLY TO THE FULLEST EXTENT ALLOWED BY LAW.

REGARDLESS OF THE PREVIOUS CLAUSE, IN NO EVENT WILL THE COMPANY, ITS AFFILIATES, ITS LICENSORS, OR ANY OF SUCH PARTIES' EMPLOYEES, OFFICERS, DIRECTORS, OWNERS, OR AGENTS TOTAL LIABILITY TO YOU FOR ALL DAMAGES, LOSSES OR CAUSES OR ACTION EXCEED ONE HUNDRED UNITED STATES DOLLARS (\$100.00).

15. INDEMNIFICATION

You agree to defend, indemnify and hold the Company and (if applicable) its parent, subsidiaries, affiliates, and its and their respective shareholders, officers, directors, attorneys, agents, employees, licensors and

suppliers (collectively, the "**Company Indemnitees**") harmless against any claim or demand and all liabilities, costs and expenses (including reasonable attorneys' fees) incurred by any of the Company Indemnitee resulting from or arising out of (i) your breach of this Agreement, (ii) your improper use of the Services, (iii) your violation of any law or the rights of a third party, (iv) the performance of a Call Obligation, including your provision of medical care or lack thereof, and (v) claims by your patients or co-workers or the Call Obligation facility.

16. DISPUTE RESOLUTION/ARBITRATION

Forum and Venue. You agree that you will resolve any claim you have with us relating to, arising out of, or in any way in connection with the Agreement, the Company, or the Services (each, a "**Dispute**" and together, "**Disputes**") exclusively in the United States District Court for the District of Minnesota or a state court located in Hennepin County in Minnesota, and you agree to submit to the personal jurisdiction of such courts for the purpose of litigating all such Disputes.

Governing Law. The laws of the State of Minnesota govern our Agreement, as well as any Disputes, whether in court or arbitration, which might arise between the Company and you, without regard to conflict of law provisions.

Arbitration Provision

PLEASE READ THIS SECTION CAREFULLY BECAUSE IT CONTAINS A DESCRIPTION OF CERTAIN RIGHTS AND OBLIGATIONS. IT REQUIRES YOU TO SUBMIT TO BINDING INDIVIDUAL ARBITRATION OF ALL DISPUTES, EXCEPT FOR THOSE THAT INVOLVE EXCLUDED DISPUTES. THIS MEANS YOU ARE WAIVING YOUR RIGHT TO HAVE SUCH DISPUTES RESOLVED IN COURT BY A JUDGE OR JURY. THIS SECTION ALSO LIMITS THE TIME YOU HAVE TO START AN ARBITRATION OR, IF PERMISSIBLE, A COURT ACTION. FINALLY, THIS SECTION WAIVES YOUR RIGHT TO HAVE YOUR DISPUTE HEARD AND RESOLVED AS A CLASS ACTION, CLASS ARBITRATION, OR A REPRESENTATIVE ACTION.

"**Excluded Dispute**" means any Dispute relating to the enforcement or infringement of our intellectual property rights (such as copyrights, trademarks, domains, logos, trade dress, trade secrets, and patents). For clarity and notwithstanding the foregoing, those Disputes relating to, arising out of, or in any way in connection with your rights of privacy and publicity are not Excluded Disputes.

Federal Arbitration Act. The United States Federal Arbitration Act governs the interpretation and enforcement of this "Arbitration Provision" section, including any question of whether a Dispute between the Company and you is subject to arbitration.

Agreement to Arbitrate. The Company and you each agree to waive the right to a trial by judge or jury for all Disputes, except for the Excluded Disputes. The Company and you agree that all Disputes (except for the Excluded Disputes), including those relating to, arising out of, or in any way in connection with your rights of privacy and publicity, will be resolved through final and binding arbitration. The Company and you agree not to combine a Dispute that is subject to arbitration under our Agreement with a Dispute that is not eligible for arbitration under our Agreement.

The arbitration will be administered by the American Arbitration Association (AAA) under its Commercial Arbitration Rules in effect at the time the arbitration is started, including the Optional Rules for Emergency Measures of Protection and the Supplementary Procedures for Consumer-Related Disputes (together, the "AAA Rules"). The arbitration will be presided over by a single arbitrator selected in accordance with the AAA Rules. The AAA Rules, information regarding initiating a Dispute, and a description of the arbitration process are available at www.adr.org. The arbitrator will decide whether a Dispute can be arbitrated. The location of the arbitration and the allocation of fees and costs for such arbitration shall be determined in accordance with the AAA Rules.

Opt-Out Procedure. You may opt out of this agreement to arbitrate. If you do so, neither we nor you can require the other party to participate in an arbitration proceeding. To opt out, you must notify us in writing postmarked within 30 days of the later of: (i) the date that you first accepted our Agreement; and (ii) the date you became subject to this arbitration provision. You must use this address to opt-out to the attention of:

Thomas Letscher
Fox Rothschild LLP
33 South 6th Street, Suite 3600
Minneapolis, MN 55402

Time Limit to Start Arbitration

We and you agree that for any Dispute (except for Excluded Disputes) we and you must commence an arbitration proceeding within one year after the Dispute first arose; otherwise such Dispute is permanently barred. This means that if we or you do not commence an arbitration within one year after the Dispute first arose, then the arbitration will be dismissed because it was started too late.

No Class Actions, Class Arbitrations, or Representative Actions. We and you each agree that each of we and you may bring Disputes against the other only on its or your own behalf, and not on behalf of any other person or entity, or any class of people. We and you each agree not to participate in a class action, a class-wide arbitration, Disputes brought in a private attorney general or representative capacity, or consolidated Disputes involving any other person or entity in connection with any Dispute.

Severability. If the prohibition against class actions and other Disputes brought on behalf of third parties is found to be unenforceable for a Dispute, then all of the provisions above under the caption "Arbitration Provision" will be null and void as to that Dispute.

Place to File Permitted Court Actions. If you opt out of the agreement to arbitrate, if your Dispute is an Excluded Dispute, or if the arbitration agreement is found to be unenforceable, you agree to be subject to the "Forum and Venue" provision in the "Dispute Resolution" section set forth above.

17. CALIFORNIA RESIDENTS

If you are a Californian resident, in accordance with Cal. Civ. Code §1789.3, you may report complaints to the Complaint Assistance Unit of the Division of Consumer Services of the California Department of Consumer Affairs by contacting them in writing at 1625 North Market Blvd., Suite N 112 Sacramento, CA 95834, or by telephone at (800) 952-5210.