

GENERAL TERMS AND CONDITIONS

1. Introduction. The following terms and conditions (the “Terms and Conditions”) are incorporated by reference into the Master Software License and Services Agreement (the “Agreement”) between you (“Client”) and Outcomes Operating, Inc., and/or its subsidiaries and affiliates (“Outcomes”). The Agreement and these Terms and Conditions govern your access and use of Outcomes’ software, solutions, applications, services, and other products (“Services”). By using the Services, Client agrees to these Terms and Conditions. Capitalized terms not defined herein shall have the meaning ascribed to such terms in the Agreement. For the sake of clarity, the term “Agreement” shall include these Terms and Conditions.

2. Software.

- a. The Software includes the following: (i) object code in machine readable form; (ii) required licenses to any third-party software embedded in the Software; and (iii) all documentation and specifications for the Software.
- b. Subject to the terms and conditions of the Agreement, the following rights and privileges are granted to Client under the License: (a) to use the Software at the Permitted Locations and (b) to make up to five (5) copies of the Software, or any part of the Software, for Client's in-house use. Client may not use the Software, or any copy, modification or merged portion thereof, in whole or in part, except as expressly provided in the Agreement.
- c. Client may not sub-license, assign, or transfer the License or the Software, or any part thereof, except as expressly provided in this Agreement or with the written consent of Outcomes. Any attempt otherwise to sub- license, assign or transfer any of the rights, duties or obligations hereunder is void. If Client transfers possession of any copy, modification, or merged portion of the Software to another party, Client’s license hereunder is automatically terminated.
- d. Client will not: (a) decompile, disassemble, or otherwise reverse engineer the Software; (b) attempt to derive the source code form of the Software; (c) intentionally remove or materially alter any trademark, copyright, product identification or other proprietary notices contained in the Software; or (d) create a derivative work of any part of the Software.
- e. Client is required to subscribe to Support Services in order to maintain the License and to use the Software. The License shall automatically terminate, with no further action by Outcomes, in the event the Support Services are terminated (including termination by Outcomes for Client’s failure to timely pay for the Support Services).

3. Hardware.

- a. New Hardware may be returned for a refund or replacement, provided that Client returns the Hardware to Outcomes within forty-five (45) days of the original shipment date. All items returned must be in the original packaging and in “like new” condition, with all components and accessories that were shipped with the original purchase. No refunds or exchanges will be permitted after the forty-five (45) day window has expired.
- b. Any Hardware that is returned must be sent back to the Outcomes location from which it was shipped.
- c. Unless the Hardware is defective, Client shall pay Outcomes a 20% restocking fee for any items sent back to Outcomes for a refund or replacement (based on the original sales price of the returned items).
- d. The following Hardware related fees are not refundable at any time: all shipping and handling charges, equipment set-up charges, and testing and software installation charges.
- e. Outcomes shall, to the extent permissible, pass through to Client all available original equipment manufacturer warranties on the Hardware.
- f. Client is responsible for maintaining industry-standard security and compliance features and controls on the Hardware and Client’s IT network. Additionally, Client is responsible for installing all necessary patches and updates for any software installed on the Hardware, including, without limitation, the operating system. Outcomes assumes no responsibility nor liability for any security-related issues, compliance-related issues, patch maintenance, or similar issues related to the Hardware or Client’s IT network. In no event shall Outcomes have any obligation or liability to Client for any direct, indirect, incidental, special, exemplary or consequential damages (including, without limitation, any loss of data, revenue or profits or business interruption) or other pecuniary loss arising out of Client's failure to meet its responsibilities in this subsection.

4. Support Services.

- a. Updates to Software released for general use and covered under this Agreement (the “Updates”) will be provided to the Client at no additional charge during the Term of this Agreement. Client agrees to install all such provided Updates for use within fifteen (15) business days of receipt. Client acknowledges and agrees that Outcomes shall only be obligated to support its most current licensed Software release. Outcomes does not guarantee that it can or will support any older releases of its licensed Software and reserves the right, in its sole discretion, to (i) charge a surcharge for providing Support Services for discontinued products and/or older versions of licensed Software of (ii) discontinue all forms of support for discontinued products and/or older versions of Licensed Software.

- b. The Support Services cover the Software licensed under the Agreement, for use on a system that meets the minimum equipment configuration for the licensed Software, as communicated to Client by Outcomes (the “Minimum Equipment Configuration”), and as updated with the Updates and most current licensed software release and any other improvements or modifications furnished to Client under this Agreement. In the event that Client installs the Software or any updated version of the Software on a system that does not meet the Minimum Equipment Configuration for such Software, Client agrees that Outcomes shall not have any responsibility for the performance of the Software on Client’s system. If Outcomes agrees, in its sole discretion, to provide Support Services for Software installed on hardware that does not meet the Minimum Equipment Configuration, Outcomes reserves the right to charge and Client agrees to pay a surcharge for providing such Support Services.
- c. Support Services do not cover support for software created by third parties nor do they cover equipment and/or peripheral devices attached to the computer or terminals operating the Software. Calls for support where the problem is determined to be a direct or indirect result or consequence of the Software being incorrectly installed, where such installation was not done directly by Outcomes personnel or not in accordance with Outcomes installation instructions, may result in non-covered support charges to Client at Outcomes’ then-current hourly support rates.
- d. Outcomes may change the terms and conditions associated with the Support Services upon thirty (30) days written notice to Client; such written notice may be provided in generally distributed Outcomes literature such as a newsletter or as an amendment to the Agreement of these Terms and Conditions.
- e. Client agrees to install and maintain for the duration of this Agreement a stable high-speed internet connection sufficient to allow Outcomes to provide the Support Services. Outcomes shall not be liable for failing to provide Support Services due to Client’s unstable or insufficient internet connection.
- f. Outcomes may interrupt the Services periodically to perform maintenance. Outcomes will use reasonable efforts to notify Client prior to the performance of any maintenance. There may be times where Outcomes has to perform emergency maintenance without notice and during peak usage times. Client may not treat any interruption for maintenance as our failure to perform under this Agreement.

5. Confidential Information.

- a. “Confidential Information” means any and all non-public technical and non-technical information provided by either party to the other, including but not limited to ideas, sketches, techniques, drawings, works of authorship, models, inventions, know-how, processes, apparatuses, equipment, algorithms, software programs, software source documents, and formulae related to the current, future and proposed products and services of each of the parties, and including, without limitation, their respective information concerning research, experimental work, development, design details and specifications, engineering, financial information, procurement requirements, purchasing, manufacturing, customer lists, investors, employees, business and contractual relationships, business forecasts, sales, merchandising, marketing plans and information the disclosing party provides regarding third parties. The Parties expressly acknowledge and agree that the transactions contemplated by the Agreement and the terms, conditions, and negotiations concerning the same, constitute Confidential Information.
- b. Each party agrees: (i) not to use any Confidential Information of the other party for any purpose except in the performance of its obligations under this Agreement or as otherwise expressly permitted hereunder; (ii) to disclose such Confidential Information only to employees (or third party subcontractors permitted under this Agreement) who have a need to know such Confidential Information for purposes of this Agreement and who are under a duty of confidentiality no less restrictive than that set forth herein; (iii) to protect such Confidential Information from unauthorized use, access, publication, or disclosure in the same manner that it protects its own similar Confidential Information, but in no event with less care than a reasonably prudent business would exercise; and (iv) to promptly notify the other party of any actual or potential unauthorized access to or use of Confidential Information.
- c. All Confidential Information shall remain the sole property of the disclosing party, and the receiving party shall have no interest in or rights with respect thereto except as expressly set forth in this Agreement.
- d. The foregoing restrictions on disclosure shall not apply with respect to any information which: (i) was or becomes generally known or publicly available through no act or failure to act on the part of the receiving party; (ii) is known by the receiving party without restrictions on disclosure at the time of receiving such information as evidenced by its records; (iii) is rightfully furnished to the receiving party without restrictions on disclosure by a third party without a breach of such third party’s obligations of confidentiality; or (iv) is required by law to be disclosed by the receiving party, provided that the receiving party gives the disclosing party prompt written notice of such requirement prior to such disclosure.
- e. The parties acknowledge and agree that, in the event of any breach of this section, the other party may be irreparably and immediately harmed and unable to be made whole by monetary damages. It is accordingly agreed that the non-breaching party, in addition to any other remedy to which it may be entitled at law or in equity, will be entitled, without notice or bond, to seek temporary restraining orders and permanent injunctions prohibiting disclosure of the Confidential Information by the breaching party and any and all persons acting in concert with the breaching party and/or to compel specific performance of this Agreement.
- f. This subsection will survive any termination of the Agreement for a period of three (3) years. Notwithstanding the foregoing, with respect to trade secrets, the obligations of this subsection shall remain in effect for as long as such information shall remain a trade secret under applicable law.

6. Intellectual Property Rights. All title and rights of ownership in the Software, including, without limitation, patents, trademarks, copyrights, service marks, logos, trade names, trade secrets and all other intellectual property rights, belong to, and remain with, Outcomes. No such rights are transferred to Client under the Agreement, except for the License on the terms and conditions set forth herein. If Client provides Outcomes with ideas, suggestions, or proposals (“Feedback”), Client grants Outcomes a perpetual, non-exclusive, worldwide, royalty-free license that is sub-licensable and transferrable, to make, use, sell, have made, offer to sell, import, reproduce, publicly display, distribute, modify, and publicly perform the Feedback.

7. Backup Services. If Client elects to utilize the Outcomes Remote Backup Service or other similar data backup service offered by Outcomes (the “Backup Service”), the following additional terms shall apply with respect to the Backup Service:

- a. The Backup Service, including transmission, storage, viewing and retrieval of data and files is subject to a variety of conditions that make such transmission, storage, viewing and retrieval potentially unreliable, and Client acknowledges that the quality and accuracy of Client's data backup services is dependent on the accuracy, quality, and reliability of Client's data. Accordingly, Client's use of the Backup Service is at Client's sole risk. The Backup Service is provided to Client on an "as is" basis. Outcomes disclaims all warranties and conditions, express or implied, arising by law or otherwise, with respect to the Backup Service (including, without limitation, any implied warranties of merchantability, fitness for a particular purposes and non-infringement). Outcomes makes no representation or warranty that: (a) the Backup Service will meet Client's needs; (b) the Backup Service will be timely, error-free, uninterrupted, or virus-free; (c) Client's data and files will not be lost or damaged; or (d) the data on Client's desktop or server will not be lost or damaged. Client acknowledges that any material or data retrieved through the use of the Backup Service is done at Client's choice and risk and that Client will be solely responsible for any damage to its computer system or loss of data that results from the retrieval of such material or data.
- b. In no event shall Outcomes have any obligation or liability to Client for the cost or procurement of substitute services or data or for any direct, indirect, incidental, special, exemplary or consequential damages (including, without limitation, any loss of data, revenue or profits or business interruption) or other pecuniary loss arising out of Client's use of the Backup Service or Client's loss of data or files stored therein.

8. Fees. Unless otherwise stated in the Agreement, or an exhibit or schedule thereto: (a) fees for Support Services are payable in advance of the applicable support period; (b) fees for any Hardware are due at the time Client orders such Hardware and must be paid prior to Outcomes shipping such Hardware to Client; and (c) fees for all Software and Other Services are due upon receipt of such Software or Other Services. All invoices shall be in U.S. dollars. A late fee of two percent (2%) per month or the maximum permitted by law, whichever is less, shall be applied to any overdue fee balances. Outcomes reserves the right to increase the fees for the PrescribeWellness Services, Support Services, Switching, and any Other Services at any time. No such change in fees shall be effective for Client prior to the end of a pre-paid coverage period and shall not be retroactive. Fees are non-refundable.

The fees do not include, and Client must pay, any applicable taxes or applicable third-party fees, including without limitation utility fees, mobile carrier fees, ISP charges, data plan charges, and foreign exchange fees. Outcomes may, at Client's expense, take steps to collect the fees Client owes.

9. Invoice Dispute. Client may only withhold payment on any invoiced amounts reasonably disputed in good faith under this Agreement. In the event of a disputed invoice, Client shall: (i) provide Outcomes notice of any disputed amounts, including a reasonable explanation to support the withholding of any disputed amounts; and (ii) timely pay all undisputed amounts on the invoice. Any dispute to an invoice must be brought to the attention of Outcomes within thirty (30) days of the date of such invoice, otherwise such invoice will be deemed accepted by Client.

10. Suspension of Services. In the event that Client fails to timely pay an undisputed invoice, Outcomes may suspend Services and access to the Software until Client has timely paid all such undisputed invoices.

11. Data Rights for Pharmacy Programs. As part of the Services offered to Client, Outcomes may provide certain pharmacy programs to Client and its patients, including, without limitation, programs related to patient safety and education, prescription adherence, prescription refills, medication therapy management, clinical trials, medication history, rebate administration, drug rebates, drug coupon and other patient assistance, and statistical aggregation (the “Pharmacy Programs”). Outcomes may use Client data, including protected health information when necessary and in accordance with the business associate agreement, to provide the Pharmacy Programs to Client. Outcomes may also provide such data to business and sub-business associates of Outcomes to perform services necessary for Patient Programs. Client may opt-out of Pharmacy Programs at any time by providing at least thirty (30) days written notice to Outcomes of its desire to not participate in such Pharmacy Programs.

In addition, Outcomes (or its subsidiaries), contracts with a variety of industry entities to deliver patient centered programs designed to drive adherence, STAR ratings, improved health outcomes, collaborative care and outstanding community pharmacy performance (the “Clinical Programs”). Outcomes may perform patient outreach to Client's patients to drive successful patient adherence, education and outcomes. Clinical Programs sponsored by health insurance companies may require Outcomes to provide patient information related to the health insurance company's beneficiaries to the health insurance company on behalf of Client for payment activities or health care operations. Outcomes may also provide patient information to business and sub-business associates of Client to perform data aggregation services necessary for Clinical Programs. Client may opt-out of Clinical Programs at any time by providing written notice to Outcomes of its desire to not participate in such Clinical Programs.

Client represents and warrants that it has its patients' express consent to allow Outcomes to use the patients' individually identifying information and protected health information to deliver or cause to be delivered calls and unencrypted messages to such patients, by using an automatic telephone dialing system or an artificial or pre-recorded voice or other means, for any and all purposes, including Pharmacy Programs, Clinical Programs,

marketing and advertising care alternatives and other benefits, products, and services that may be of interest. If Client's patients have not provided or withdraw their consent to such calls or messages, Client shall immediately notify Outcomes. Client shall indemnify, defend, and hold harmless Outcomes and its employees, directors, officers, agents, and board members against all claims, fines, losses, penalties, damages, costs and expenses that arise out of, result from or are attributable to Client's breach of the warranty and obligations set forth in this paragraph.

12. Clinical Programs. If Client participates in a Clinical Program(s), Client shall:
- a. Ensure each pharmacy, participating pharmacist(s), and pharmacy staff:
 - i. meets all licensing and other requirements to provide program services, and are in good standing with all applicable regulatory boards and licensing agencies, such as a state board of pharmacy; and
 - ii. are not excluded by the Office of Inspector General (OIG) or General Services Administration (GSA) from providing services for government sponsored health plans; and
 - iii. complete any required training for such Clinical Program(s) provided by Outcomes.
 - b. Maintain reasonable general and professional liability insurance appropriate to cover the Clinical Program.

Client agrees that Client has made an independent determination of each patient's need for and the appropriateness of a specific treatment under the Clinical Program and that Client is providing the services based such independent judgment. Client agrees that it is solely liable for the services it provides in a Clinical Program, and waives and releases Outcomes from all claims, liabilities, losses, damages, and injuries incurred by a patient or third-party arising out of a Clinical Program.

13. De-Identified Data. Outcomes may use protected health information to create de-identified information ("De-Identified Information") in accordance with the applicable provisions of 45 C.F.R. § 164.514, and may use and disclose such De-Identified Information: (1) for the purposes described in the Agreement; and (2) to fulfill any legal responsibilities of Client and/or Outcomes. Outcomes may also use and disclose such De-Identified Information for any purpose and in any manner consistent with applicable law and may disclose such De-Identified Information to a third party for such third party's own use; provided, however, that: (1) Outcomes will not re-identify De-Identified Information and (2) Outcomes will take reasonable steps to ensure that its workforce, subcontractors and third parties that receive De-Identified Information do not re-identify De-Identified Information.

14. Diagnostics. Hardware and Software provided by Outcomes may report various diagnostic data to Outcomes. Diagnostic data is used only to keep the Hardware and/or Software and up-to-date, detect, diagnose, and fix problems, and also make product improvements. This data does not include any protected health information ("PHI"), any other personally identifiable information, or any information unrelated to Outcomes Hardware and/or Software.

15. Outbound Communications. Client is not allowed to use the outbound communication features (including voice and text communications) in the Services for the advertisement, marketing or sale of products or services. Client agrees to take reasonable steps, independent of Outcomes, to stay informed as to applicable state and federal laws as it applies to the use of the outbound communication features of the Software. Client is solely responsible for its use of the outbound communication features. Client warrants that it has received permission from its customers to send voice and text communications to mobile devices. Client affirms that it has not purchased and is not using a customer call list to send outbound communications through the Software.

16. Switching. If Client elects to use the Software to electronically transmit claims to a third-party (e.g., RelayHealth, Change Healthcare, etc.) for payment from payers (each, a "Switch"), the following additional terms and conditions apply:

- a. Data Rights. Client grants Outcomes the right to use and transmit Client data to Client's selected Switch on Client's behalf.
- b. Payment. Client agrees to pay Outcomes a per claim fee for each claim transmitted to the Switch, at the rate set forth in the Agreement or at Outcomes' current rates.
- c. RelayHealth Terms and Conditions. If Client elects to use RelayHealth as its Switch, the following terms and conditions shall apply:
 - i. Electronic Prescription Services Terms:
 - a. Client shall not use any means, program, or device, or permit any other person to use any means, program, or device, including, but not limited to, advertising, instant messaging, and pop up ads, to influence or attempt to influence, through economic incentives or otherwise, the prescribing decision, as defined below, of a prescriber at the point of care, as defined below, if (i) such means, program, or device is triggered by, initiated by, or is in specific response to, the input, selection, and/or act of a prescriber or his/her agent prescribing a pharmaceutical or selecting a pharmacy for a patient and (ii) that prescription will be delivered via the Electronic Prescription Services Network. "Prescribing decision" means a prescriber's decision to prescribe a certain pharmaceutical or direct the patient to a certain pharmacy. Point of care shall mean the time that a prescriber or his/her agent is in the act of prescribing a pharmaceutical for a patient.
 - b. Client shall not: (i) use the Surescripts Network in any manner which would allow the general public access thereto; or (ii) allow any use of the Surescripts Network by entities other than Client. Client shall not access the Surescripts Network outside of the jurisdiction of the United States.
 - ii. Patient Assistance Rx:
 - a. Client shall communicate the Program Message to the patient.

- b. Client shall use commercially reasonable means in order to ensure the complete Program Message may both be seen by the pharmacy and printed for delivery to the patient.
- c. Client authorizes Outcomes to allow RelayHealth to access and use historical and prospective prescriptions claims data processed over the RelayHealth Intelligent Network by RelayHealth on behalf of Client.

17. RelayHealth Commercial E1 Service Terms and Conditions. If Client's use of the Software utilizes the RelayHealth RealEligibility Commercial E1 Service (the "Commercial E1 Service"), the following additional terms and conditions shall apply:

- a. Definitions. For purposes of these additional flow down terms, the following words and terms will have the meanings set forth below. "Client" means a customer of Outcomes that has entered into a written agreement pursuant to which Outcomes provides or makes available to the customer the Commercial E1 Service. For purposes of this Section, "Applicable Law" means any and all federal, state and local laws and regulations that apply to Outcomes, Client or End Users. "Pharmacy Benefit Manager Data Source" means a pharmacy benefit manager ("PBM"), health benefit payor or administrator, or other similar entity which has entered into a written agreement with Surescripts to allow access through the Surescripts Network to information for the Commercial E1 Service. "End User" means an individual that is employed by, an active member of the medical staff of, workforce of (as defined in 45 C.F.R. § 160.103) or otherwise performing healthcare services as an authorized representative of Client. "Surescripts Data" means any data or information provided to Outcomes, its Clients and End Users by or through RelayHealth by Surescripts as part of the Commercial E1 Service, including statistics collected by Surescripts regarding transactions processed by the Surescripts Network, test data, test cases, configuration information, and problem description and resolution information; provided, however, that it does not include any data sent by Outcomes, its Clients or End Users to Surescripts through RelayHealth.
- b. Message Transmission and Content. Client shall comply with Applicable Law. Client shall ensure (a) that each end user of Client authorized to use the Commercial E1 Service meets the definition of End User set forth above; and (b) that each End User is identity proofed in accordance with industry standards to Surescripts' reasonable satisfaction, pursuant to standards that Surescripts may issue from time to time. Client shall further ensure that each End User is authenticated in accordance with procedures compliant with a national industry standard recognized by Surescripts in its reasonable discretion.
- c. Firewall. Client shall not use the Surescripts Data provided by Pharmacy Benefit Manager Data Sources to promote or encourage Outcomes or its clients maintaining pharmacy benefit manager services or to augment Outcomes's or Client's own eligibility or medication history records. In the event that Client has pharmacy benefit manager operations, Client shall maintain all Surescripts Data provided by Pharmacy Benefit Manager Data Sources separate or "walled off" from the data from its other pharmacy benefit manager operations, if any.
- d. Patient Consent and Authorizations. Client and Client's End Users shall comply with any privacy and patient consent policies of Surescripts related to the delivery of Private Information and/or PHI as may be published by Surescripts from time to time and are provided to RelayHealth. Client and its End Users acknowledge that Pharmacy Benefit Manager Data Sources may impose additional privacy and patient consent policies on the delivery of Private Information and/or PHI through the Surescripts Network. Client shall use commercially reasonable efforts to implement any such policies within ninety (90) days following Outcomes' receipt of such policies from RelayHealth. In the event that Outcomes or Client do not implement such policies within ninety (90) days of receipt of such policies from RelayHealth (which shall be no more than thirty (30) days after RelayHealth's receipt of such policies from Surescripts), then Surescripts shall immediately suspend the Commercial E1 Service responses for such applicable Pharmacy Benefit Manager Data Source.
- e. Use of Data. Client and End Users shall not attempt to capture, open, examine, modify, add commercial or other messages to, repackage, distribute, license, sell or make any commercial use of any data or information provided by any Pharmacy Benefit Manager Data Source by or through the Surescripts Network other than as specifically permitted under the Commercial E1 Exhibit. Client and End Users shall engage in no act or omission which would alter the content of, interfere with, modify, or delay (i) the transmission of any data or information provided by the Pharmacy Benefit Manager Data Sources which is communicated through the Surescripts Network, or (ii) the incoming or outgoing transmission or receipt of any message sent through the Surescripts Network. Surescripts may share Client's data with other Pharmacy Benefit Manager Data Sources to the extent necessary to fulfill the terms and conditions of the Commercial E1 Exhibit. Nothing in these additional flow down terms or the Commercial E1 Exhibit is intended to restrict use of data or information provided by Pharmacy Benefit Manager Data Sources and obtained or sent through the Surescripts Network once such data or information has become a part of a patient's permanent record
- f. Limitations of the Surescripts Network. Surescripts uses available technology to match patient identities in order to provide the Commercial E1 Service. Because patient information is maintained in multiple places, not all of which are accessible to Surescripts, and because not all patient information is kept in a standard fashion or is regularly updated, it is possible that false matches may occur or that there may be errors or omissions in the information provided by Surescripts from Pharmacy Benefit Manager Data Sources. Surescripts is not a health plan, health care provider, or prescriber. Surescripts does not and cannot independently verify or review the information transmitted through the Surescripts Network for accuracy or completeness. Neither Surescripts nor any Pharmacy Benefit Manager Data Source provides any representations or warranties with respect to the accuracy or completeness of such information. Pursuant to the foregoing, Client and End Users acknowledge that the Surescripts Data provided by Surescripts from Pharmacy Benefit Manager Data Sources may not be complete or accurate, and hereby releases and holds harmless, RelayHealth, Surescripts and the Pharmacy Benefit Manager Data Sources from any liability, cause of action, or claim related to the completeness or lack thereof of such Surescripts Data.
- g. Indemnification. Client shall indemnify and save harmless Outcomes from and against any and all loss, damage or expense (or claims of damage or liability) asserted against Outcomes by third parties arising out of any breach by Client or Client's End Users of any of the Flow

Downs Terms. For the avoidance of doubt, the indemnification obligations outlined in the preceding sentence shall not be subject to any limitation of liability otherwise provided for.

Outcomes shall indemnify, defend, and hold harmless Client against all liabilities, damages, losses, costs or expenses resulting from any suit, claim, or proceeding (a "Claim") alleging that Client's use of Outcomes' intellectual property violates or infringes a third-party's intellectual property rights if: (a) Client promptly notify Outcomes in writing of the Claim; (b) gives the Outcomes sole authority, at the Outcomes' expense, to direct and control the defense and any settlement and compromise negotiations; provided, however, that Client shall have the right to participate at Client's expense in settlement and compromise negotiations.; and (c) Client provides Outcomes, at TDS' expense, with such disclosure and assistance of Client as may be reasonably required to defend any such Claim. Any settlement by Outcomes of a Claim under this Section, including a settlement that requires any changes to the services or equipment must be approved by Client, with such approval not to be unreasonably withheld.

- h. Termination. RelayHealth may terminate the Commercial E1 Service immediately in the event that Surescripts is no longer performing the Commercial E1 Services or the terms of the agreement between RelayHealth and Surescripts pursuant to which RelayHealth may resell the Commercial E1 Services are no longer in force or effect.

18. FairCom Terms and Conditions. If Client's use of the Software utilizes the FairCom database software (the "FairCom Technology"), the following additional terms and conditions shall apply:

- a. Deployment. Each copy of FairCom Technology deployed will be authorized for use in one (1) single instance, either on a physical machine or in a virtual machine.
- b. Export Restrictions. Access to and deployment of FairCom Technology is granted with the specific understanding and requirement that responsibility for ensuring full compliance with all applicable U.S. and foreign export laws and regulations is being undertaken by Client. This includes an obligation to ensure that any individual receiving access who is not a U.S. citizen or permanent U.S. resident is permitted access under applicable U.S. and foreign export laws and regulations. In the event Client is uncertain whether Client may lawfully obtain access to the FairCom Technology or Deploy any file created with the FairCom Technology, Client acknowledges its obligation to consult with legal counsel to determine whether access is lawful. Client understands and acknowledges its obligations to make a prompt report to FairCom and the appropriate authorities regarding any access to or use of the FairCom Technology or any file created with the FairCom Technology that may be in violation of applicable U.S. or foreign export laws or regulations. Client will hold FairCom and Outcomes harmless for any breach by Client of any U.S. or export laws and regulations.
- c. Warranty. FairCom Technology is licensed "as is" and FairCom disclaims any and all warranties, whether express or implied, including, without limitation, any implied warranties of merchantability or fitness for a particular purpose to all persons or users.
- d. Liability. Client unconditionally, irrevocably and completely releases FairCom from any and all liability, damages or claims.
- e. Limited Use. FairCom Technology is authorized for use only with the Software. Renting, leasing or sharing of FairCom Technology is prohibited. Redistribution of FairCom Technology in any form or for any purpose is prohibited.
- f. Notification. Use of FairCom Technology is subject to a separate license agreement between Outcomes and FairCom, including all the terms, conditions, limitations, restrictions and disclaimers therein; provided, however, that Client's acceptance of these terms and conditions does not make Client a third-party beneficiary thereof and cannot enforce the terms of the agreement between FairCom and Outcomes.

19. Medicare Plan Finder Tool Terms and Conditions. If Client's use of the Services utilizes the Medicare Plan Finder Tool subscription (the "Medicare Plan Finder"), the following additional terms and conditions shall apply:

- a. Client acknowledges that Client is familiar and shall comply with the requirements stated in 42 C.F.R. §§ 422 et seq. (Medicare Advantage Program) and 42 C.F.R. §§ 423 et seq. (Voluntary Medicare Prescription Drug Benefit), including the limitations on the marketing to or steering Client customers to particular Medicare Advantage or prescription drug plans. Client agrees to keep informed of and abide by all relevant federal and state regulations and all marketing guidelines established by the Centers for Medicare and Medicaid Services ("CMS").

20. Oracle Terms and Conditions. If Client's use of the Software utilizes the Oracle database software (the "Oracle Technology"), the following additional terms and conditions shall apply:

- a. Client shall limit the use of the Oracle Technology to the legal entity that executed the underlying agreement with Outcomes.
- b. Client shall restrict its use of the Oracle Technology to the scope of the application package and to the internal business operations of Client. Client may permit its agents or contractors (including, without limitation, outsourcers) to use the application package on Client's behalf for Client's internal business operations as described above, subject to the terms of the Agreement. For an application package that includes programs that are specifically designed to facilitate interactions between Client and the Client's customers and suppliers, Client may permit its customers and suppliers to use the application package in furtherance of such interactions subject to the Agreement. Client shall be responsible for its agent's, contractor's, outsourcer's, customer's and supplier's use of the application package and compliance with the Agreement.
- c. Oracle or its licensor shall retain all ownership and intellectual property rights to the Oracle Technology.

- d. Client is prohibited from assigning, giving, or transferring the Oracle Technology and/or any services ordered or an interest in them to another individual or entity (in the event the end user grants a security interest in the programs and/or any services, the secured party has no right to use or transfer the programs and/or any services).
 - e. Client shall not (a) use the programs for rental, timesharing, subscription service, hosting, or outsourcing; (b) remove or modify any program markings or any notice of Oracle's or its licensors' proprietary rights; (c) make the programs available in any manner to any third party for use in the third party's business operations (unless such access is expressly permitted for the specific program license); and (d) receive title to the Oracle Technology or pass any such title to any other party.
 - f. Client shall prohibit the reverse engineering (unless required by law for interoperability), disassembly or decompilation of the programs (the foregoing prohibition includes but is not limited to review of data structures or similar materials produced by programs) and prohibit duplication of the programs except for a sufficient number of copies of each program for Client's licensed use and one copy of each program media.
 - g. To the extent permitted by applicable law, Oracle shall not be liable for (a) any damages, whether direct, indirect, incidental, special, punitive or consequential, or (b) any loss of profits, revenue, data or data use, arising from the use of the programs.
 - h. Should Client's use of the Software no longer utilize the Oracle Technology or upon termination of the Agreement, Client shall discontinue use and destroy or return to Outcomes all copies of the programs and documentation.
 - i. Client shall not publish any results of benchmark tests run on the Oracle Technology.
 - j. Client shall fully comply with all relevant export laws and regulations of the United States and other applicable export and import laws to assure that neither the programs, nor any direct product thereof, are exported, directly or indirectly, in violation of applicable laws.
 - k. Client acknowledges and understands the Oracle Technology is subject to a restricted license and can only be used in conjunction with the application package.
 - l. Client agrees that Outcomes may (i) audit, or assign to Oracle the right to audit, Client's use of the programs, (ii) require Client to provide reasonable assistance and access to information in the course of such audit. Outcomes may report the audit results to Oracle. Neither Outcomes nor Oracle shall be responsible for any of Client's costs incurred in cooperating with the audit.
 - m. The parties designate Oracle as a third party beneficiary of the Agreement.
 - n. Client shall (i) exclude the application of the Uniform Computer Information Transactions Act and (ii) inform the end user that some programs may include source code that Oracle may provide as part of its standard shipment of such programs, which source code shall be governed by the terms of the end user license agreement.
 - o. Third party technology may be appropriate or necessary for use with the Oracle Technology and may be specified in the Oracle Technology documentation or in other documentation provided by Outcomes. Such third party technology is licensed to the Client only for use with the Oracle Technology under the terms of the third party license agreement specified in the Oracle Technology documentation or as otherwise specified by Outcomes and not under the terms of the Agreement.
21. VrxAssist Term. The initial term for VrxAssist is six (6) months. Client's VrxAssist subscription will automatically renew for an additional six (6) month term unless terminated in any manner outlined in the Agreement or these Terms and Conditions.
22. Acceptable Use. Client agrees not to: (a) use the Services for service bureau or time-sharing purposes or in any other way allow third parties to exploit the Services; (b) provide Client's passwords or other log-in information to any third party; (c) share non-public features or content of the Services with any third party; or (d) access the Services in order to build a competitive product or service, to build a product using similar ideas, features, functions or graphics of the Services, or to copy any ideas, features, functions or graphics of the Services. In the event that Outcomes suspects any violation of these requirements, Outcomes may suspend Client's access to the Services without advanced notice, in addition to any other remedies Outcomes may have. Outcomes is not required to take any action for suspected violations, but may take any action that Outcomes sees fit.
23. Unauthorized Access; Export. Client agrees to take reasonable steps to prevent unauthorized access to the Services, including protecting Client's passwords and log-in information. Client also shall not permit any third party to access or use the Services in violation of any U.S. law or regulation. If Client suspects or knows of any unauthorized access or use of the Services, Client shall notify Outcomes immediately so that Outcomes may take action to stop any security breach. Client is responsible and liable for any use of the Services through Client's account whether authorized or unauthorized. Client will not export any software that Outcomes provides or otherwise remove it from the United States except in compliance with all applicable U.S. laws and regulations. Without limiting the generality of the foregoing, Client will not permit any third party to access or use the Services in, or export such software to, a country subject to a United States embargo (presently, Cuba, Iran, North Korea, Sudan, and Syria).
24. Termination for Material Breach. Outcomes or Client may terminate the Agreement in its entirety upon written notice to the other in the event that the other party is in default of the performance of any material obligation imposed under this Agreement and the default has not been substantially cured to the satisfaction of the non-defaulting party within thirty (30) days following receipt by the defaulting party of written notice of default (each, an "Event of Default"). An Event of Default specifically includes, but it not limited to, a breach of Client's obligations to pay for the Software or Services.
25. Termination for Insolvency. Either Party may terminate the Agreement without notice if the other Party becomes insolvent, makes or has made an assignment for the benefit of creditors, is the subject of proceedings in voluntary or involuntary bankruptcy instituted on behalf of or against such Party, or has a receiver or trustee appointed for substantially all of its property.
26. Effect of Termination. The termination of this Agreement, whether for breach or otherwise, shall be without prejudice to any claims for damages or other rights against the other party that preceded termination. Any provision of this Agreement which can reasonably be construed to survive the expiration or termination of this Agreement shall survive such expiration or termination and shall not relieve either party of its obligations to observe, keep and perform those surviving provisions.

27. Client Data (Post-Termination). In the event the License and/or this Agreement is terminated or any reason, Outcomes shall provide Client, in a mutually agreeable industry standard format, with electronic access to all prescription drug order files, including refill information and patient medication records.

28. Product Functionality. Outcomes warrants that the Software possesses the functional capabilities described in the documentation for such Software and shall operate in accordance with such documentation in all material respects.

29. No Viruses. Outcomes warrants that, to the best of Outcomes' knowledge, the Software does not contain any viruses, key locks, back doors, trap doors, worms, trojan horses, timers or other disabling devices (collectively, "Non-Beneficial Code"). Outcomes further warrants that Outcomes and Outcomes personnel shall not insert any, or allow any other party to insert any, Non-Beneficial Code into the Software.

30. Compliance with Applicable Laws. Outcomes warrants that it shall perform its obligations under this Agreement in a manner that complies with all applicable federal and state laws, rules, regulations and standards (collectively, "Applicable Laws"). In using the Services, Client warrants and agrees to comply with all Applicable Laws, including without limitation, laws governing the protection of personally identifiable information, protected health information and other laws applicable to the protection or communication of Client's data or information. Client understands and agrees that the Software is merely a tool for informational purposes only and does not, and is not intended to, replace or supersede Client's individual analysis or responsibility to independently understand and comply with Applicable Laws. Client should contact its attorney to obtain legal advice with respect to any particular legal matter.

31. Business Associate Agreement. Outcomes and Client agree to comply with the terms of the business associate agreement ("Business Associate Agreement") executed by both parties. If Outcomes and Client do not have a written and signed Business Associate Agreement, both Outcomes and Client acknowledge and agree that the Business Associate Agreement set forth at <https://www.outcomes.com/terms> applies.

32. Software Content; Third-Party Content. Outcomes does not provide any warranty with respect to any content in the Software, including third-party content included within the Software, including, without limitation, content related to drug utilization or other clinical content (the "Clinical Content"). The Clinical Content should not be considered complete and should not be used in place of consultation or advice from a physician, pharmacist, or other healthcare professionals. The Clinical Content is intended to supplement the knowledge of physicians, pharmacists, and other healthcare professionals regarding drug therapy problems and patient counseling information. This information is advisory only and is not intended to replace sound clinical judgment in the delivery of healthcare services. Further, the pricing information contained in the Software is merely an aid to Client regarding comparable pricing in the marketplace, and no warranty is made as to its completeness or accuracy, which could be further degraded in the event Client fails to ensure regular software updates via the Internet.

33. Disclaimer. **TO THE EXTENT PERMITTED BY LAW, THE WARRANTIES EXPRESSLY SET FORTH IN THESE TERMS AND CONDITIONS CONSTITUTE THE ONLY WARRANTIES OF THE PARTIES AND ARE IN LIEU OF ALL OTHER WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING THE IMPLIED WARRANTIES OF NON-INFRINGEMENT, MERCHANTABILITY, AND FITNESS FOR A PARTICULAR PURPOSE. THE SOFTWARE IS LICENSED FOR USE "AS IS," AND WITH ALL FAULTS AND DEFECTS. OUTCOMES DOES NOT WARRANT THAT THE FUNCTIONS CONTAINED IN THE PROGRAMS WILL MEET CLIENT'S REQUIREMENTS OR THAT THE OPERATION OF THE PROGRAM WILL BE UNINTERRUPTED, SECURE, OR ERROR FREE. OUTCOMES SPECIFICALLY DISCLAIMS ANY LIABILITY FOR ANY ACTIONS RESULTING FROM CLIENT'S USE OF ANY SERVICES. CLIENT AGREES THAT ITS USE AND ACCESS OF THE SERVICES IS AT CLIENT'S OWN DISCRETION AND RISK, AND CLIENT IS SOLELY RESPONSIBLE FOR ANY DAMAGE TO YOUR COMPUTER SYSTEM OR LOSS OF DATA THAT RESULTS FROM THE USE AND ACCESS OF ANY SERVICE.**

34. Limitation of liability. NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR ANY SPECIAL, CONSEQUENTIAL, INCIDENTAL, PUNITIVE, OR INDIRECT DAMAGES (INCLUDING, WITHOUT LIMITATION, LOSS OF PROFITS, LOSS OF BUSINESS, LOSS OF GOODWILL, LOSS OF USE OR LOSS OF DATA), ARISING FROM OR RELATING TO ANY THEORY OF LIABILITY, INCLUDING BREACH OF THIS AGREEMENT, NEGLIGENCE, OR OTHER TORTIOUS ACT, REGARDLESS OF WHETHER SUCH DAMAGES WERE FORESEEABLE OR OF ANY NOTICE OF THE POSSIBILITY OF SUCH DAMAGES. EXCEPT WITH RESPECT TO CLAIMS RELATING TO SECTION 5 (CONFIDENTIAL INFORMATION) AND SECTION 6 (INTELLECTUAL PROPERTY RIGHTS), UNDER NO CIRCUMSTANCES WILL THE LIABILITY OF EITHER PARTY TO THE OTHER PARTY EXCEED, IN THE AGGREGATE, THE FEES ACTUALLY PAID BY CLIENT TO OUTCOMES UNDER THE AGREEMENT IN THE TWELVE (12) MONTHS PRECEDING ANY CLAIM.

35. Binding Agreement. The parties hereto warrant and represent that upon execution hereof, the Agreement shall be a legal, valid and binding obligation on them and shall be enforceable against them in accordance with its terms. The Individuals signing the Agreement warrant and represent that they are duly authorized to sign the Agreement on behalf of the parties hereto.

36. Waiver. The failure to comply with or to enforce any term, provision, or condition of the Agreement, whether by conduct or otherwise, shall not constitute or be deemed a waiver of any other provision hereof; nor shall such failure to comply with or to enforce any term, provision, or condition hereof constitute or be deemed a continuing waiver. No waiver shall be binding unless executed in writing by the party making the waiver.

37. Amendments. Outcomes may amend these Terms and Conditions from time to time and, by continuing to use or access the Services, Client agrees to be bound by such amended terms, even if made after the Effective Date of the Agreement. A copy of such amended Terms and Conditions shall be made available to Client at www.tdsclinical.com/terms.

38. Notices. All notice, consents, waivers or other communications required or permitted to be given under the terms of the Agreement must be in writing and will be deemed to have been delivered: (i) upon receipt, when delivered personally; (ii) one (1) business day after deposit with a reputable overnight courier service; or (iii) three (3) business days after the mailing of the notice by United States Postal Service certified or registered mail, return receipt requested, in each case properly addressed to the party to receive the same. The addresses for such communications shall be to the respective addresses of the parties as set forth in the Agreement, or at such other address as such parties shall have furnished in writing pursuant to this section.
39. Severability. Should any part, term, or provision of the Agreement be declared to be invalid, void, or unenforceable, all remaining parts, terms, and provisions hereof shall remain in full force and effect, and shall in no way be invalidated, impaired, or affected thereby.
40. Assignment. Neither party may assign this Agreement without the prior written consent of the other party; provided, however, that either party may assign this Agreement to: (i) a parent, subsidiary or affiliate who agrees to be bound by the terms of this Agreement; and (ii) a successor-in-interest in the event of a merger (by operation of law or otherwise) or a sale of all or substantially all of a party's assets.
41. Applicable Law and Venue. This Agreement shall be governed by the laws of the State of Florida without regard to its conflict of laws provisions or the 1980 United Nations Convention on Contracts for the International Sale of Goods. The venue of any litigation arising from this Agreement shall be in the District Courts of Orange County, Florida. The venue of any dispute resolution activity shall be in Orlando, Orange County, Florida.
42. Arbitration. Any controversy or claim arising out of or relating to the Agreement or these Terms and Conditions, or the validity or breach thereof, shall be settled exclusively by binding arbitration administered by the American Arbitration Association in accordance with its Commercial Arbitration Rules, and judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof. This clause shall not preclude parties from seeking provisional remedies in aid of arbitration from a court of appropriate jurisdiction. The decision of the arbitrator, or a majority of the arbitrators if applicable, shall be final and binding and there shall be no appeal therefrom.
43. Subject Headings; Construction. The subject headings of the sections, paragraphs, and subparagraphs of this Agreement are included herein solely for the purposes of convenience and reference, and shall not be deemed to explain, modify, limit, amplify, or aid in the meaning, construction, or interpretation of any of the provisions of this Agreement. The Parties agree that the terms of this Agreement result from negotiations between Outcomes and Client. This Agreement will not be construed in favor of or against Outcomes or Client by reason of authorship.
44. Attorney's Fees and Court Costs. If either party brings an action against the other to enforce any condition or covenant of this Agreement, each party shall be individually responsible for its own court costs and attorney's fees.
45. Relationship of the Parties. None of the provisions of this Agreement are intended to create, and none shall be deemed or construed to create, any relationship between the parties, other than that of independent contractors. This Agreement shall not create the relationship of employer-employee, agency, partnership, or joint venture. Neither party shall have the right or power in any manner to unilaterally obligate the other to any third party, whether or not related to the purpose of this Agreement.
46. Entire Agreement. This Agreement contains the entire agreement between the parties relating to the rights herein granted and the obligations herein assumed, and supersedes all prior written or oral agreements or communications between the parties.
47. Force Majeure. Neither party shall be liable or deemed to be in default for any delay or failure in performance under this Agreement or interruption of service resulting, directly or indirectly, from acts of God, civil or military authority, labor disputes, shortages of suitable parts, or any similar cause beyond the reasonable control of the parties (each, a "Force Majeure Event"). Notwithstanding the foregoing, in the event a Force Majeure Event continues for more than thirty (30) days, the party not experiencing the Force Majeure Event shall have the right to terminate this Agreement.
48. PrescribeWellness Services. If Client subscribes to and/or uses any PrescribeWellness service, including the Patient Engagement Center, (the "PrescribeWellness Services") the following additional conditions apply:
- a. Privacy. The Privacy Policy at <http://www.prescribewellness.com/privacy-policy/> governs any personal information Client provides Outcomes. By using the Services, Client agrees to the terms of the Privacy Policy.
 - b. Deposit (fees and payment). Unless stated in any additional agreement, Outcomes will charge Client an initial deposit equal to the subscription fee for one month of services. This will be applied to cover the first month of the services when they commence. At the start of each successive and for the duration of Client's annual contract, Outcomes will charge Client the monthly rate stated at the time of purchase plus any applicable taxes (such as value added tax ("VAT") when the state rate does not include VAT). We will not refund any fee paid under this Agreement. If you add any additional services after you initially contract with us, we will start billing you for those services at that time in the same manner described above. If the applicable VAT rate (or other included tax or duty) changes during your one-year term, the tax-inclusive price will adjust accordingly.
 - c. Term. Client's subscription to the services begins on the first day that Client is able to access and use the services (or, in the case of additional services or products, from the date Client gains access to those additional services or products) (the "Commencement Date"). Unless otherwise provided for by any additional agreement, the initial term for Client subscription lasts for one year from the Commencement Date. Client's subscription for the services will automatically renew for one additional year unless terminated in any manner outlined in these Terms and Conditions.
 - d. Data Authorization. Client authorizes Outcomes to receive Client data from its practice management system or any third party that Client has authorized to gather, collect, store or otherwise maintain Client Data, including protected health information.

- e. Data Sharing. If Client's access or use of the services is granted or otherwise obtained through any additional agreement (for example, through an agreement with a group purchasing organization or pharmacy services administrative organization or as part of a technology rebate program), Client authorizes Outcomes to share Client data, subject to appropriate confidentiality restriction, with such third party in order to assist Client participation in the program through which the services are provided.