

## POC Terms of Use

Effective: April 15, 2024

These terms and conditions of use (the “**Terms**”) govern your and your company’s and your company’s personnel’s (collectively, “**User**” or “**You**” or “**your**”) use of the POC application (the “**Application**”). Please read these Terms carefully before using the Application. By accessing this Application in any way, including, without limitation, using any information, and/or submitting information to CAIPA MSO, LLC (the “**Company**”) and clicking the “Agree” button, downloading, installing or using the Application, You: (a) acknowledge that You have read and understand these Terms; (b) represent that you are 18 years of age or older/of legal age to enter into a binding agreement; and (c) accept these Terms on and agree that You are legally bound by the Terms. If You do not agree to these Terms, do not download, install or use the Application.

### **Binding Arbitration**

These Terms provide that all disputes, controversies, or claims arising between You and Company will be resolved by BINDING AND FINAL ARBITRATION. ACCORDINGLY, YOU AGREE TO GIVE UP YOUR RIGHT TO GO TO COURT (INCLUDING IN A CLASS ACTION PROCEEDING) to assert or defend your rights (except for matters that may be taken to small claims court or as it relates to provisional or injunctive relief). Your rights will be determined by a NEUTRAL ARBITRATOR and NOT a judge or jury and your claims cannot be brought as a class action. Please review the Section entitled Arbitration Agreement for the details regarding your agreement to arbitrate any and all disputes with Company.

### **Privacy**

Please consult Company’s [Privacy Policy](#) for a description of our privacy practices and policies. Our Privacy Policy is a part of these Terms and You agree to Company’s use and sharing of the information we collect about You as described in these Terms and our Privacy Policy.

### **No Medical Services or Advice**

The Application does not provide medical or healthcare services. Company is not a healthcare provider and the Application is not intended to provide medical or health advice, care, diagnosis or treatment. The Application is solely a tool to provide clinicians with additional information in support of their practices. It is not a replacement or substitute for independent clinical decision-making nor is it intended to supplant same.

### **License Grant**

Subject to these Terms, Company grants You a limited, non-exclusive, and nontransferable license to:

- (a) download, install, and use the Application for your use on multiple devices owned or otherwise controlled by You or your company (“**Device(s)**”) strictly in accordance with the Application’s documentation; and
- (b) access, download, and use on Device(s) the content and services made available in or otherwise accessible through the Application, strictly in accordance with these Terms.

### **License Restrictions**

Except as may be expressly permitted by applicable law or expressly authorized by the Application, You shall not:

- (a) copy the Application, or any part of the Application, except as expressly permitted by this license;
- (b) modify, translate, adapt or otherwise create derivative works or improvements, whether or not patentable, of the Application;
- (c) reverse engineer, disassemble, decompile, decode, or otherwise attempt to derive or gain access to the source code of the Application, or any part of the Application;
- (d) remove, delete, alter, or obscure any trademarks or any copyright, trademark, patent or other intellectual property or proprietary rights notices from the Application, including any copy;
- (e) rent, lease, lend, sell, sublicense, assign, distribute, publish, transfer, or otherwise make available the Application, or any features or functionality of the Application, to any third party for any reason, including making the Application available on a network where it may be accessed by more than one device at a time;
- (f) use any robot, spider, scraper, crawler or other automatic device, process, or means to access the Application or copy any data on it for any purpose;
- (g) bypass any robot exclusion headers or other measures Company may use to prevent or restrict access to the Application;
- (h) use any manual process to monitor or copy any of the material on the Application, or for any other purpose not expressly authorized by these Terms without Company's prior written consent;
- (i) frame, mirror or otherwise incorporate the Application or any part of it into any other mobile application, website or service;
- (j) use the Application in any manner that could interfere with another party's use of it;
- (k) remove, disable, circumvent, or otherwise create or implement any workaround to any copy protection, rights management, or security features in or protecting the Application; or
- (l) use the Application in, or in association with, the design, construction, maintenance or operation of any hazardous environments or systems.

### **No Violation of Agreements**

You represent and warrant, and acknowledge and agree, that your use of the Application and your agreement to these Terms do not and will not violate or conflict with any agreement and/or terms of use between you and any third-party, including, but not limited to, your (or your company's) electronic medical records vendor.

### **Reservation of Rights**

You acknowledge and agree that the Application is provided under license, and not sold, to You. You understand that you have no ownership rights or interest in the Application other than the license and rights granted to You under these Terms.

### **Privacy**

Please consult our [Privacy Policy](#) for a description of our privacy practices and policies. Our Privacy Policy is a part of these Terms and you agree to our use and sharing of the information we collect about You as described in these Terms and our Privacy Policy.

### **Content and Services**

The Application may include or provide access to third-party content or provide links to third-party websites or services (“**Third-Party Content**”). You acknowledge and agree that Company is not responsible for and will not have any liability for Third-Party Content, including the accuracy, completeness, copyright compliance, quality or any other aspect thereof. Any Third-Party Content is provided solely for convenience to You and You access and use it at your own risk and subject to any third-party terms. Information You submit at a third-party site (even though accessible through the Application) is subject to the terms of that site’s privacy policy and terms, and Company has no control over how your information is collected, used or otherwise handled.

## **Updates**

Company may from time to time in its sole discretion develop updates to the Application, which may include bug fixes, patches, other corrections and/or new features (collectively, “**Updates**”). Updates may also change or delete in their entirety certain features and functions. Company has no obligation to make Updates or to continue to provide certain features and functions. You agree to promptly download and install any Updates and that any Updates shall be part of the Application and subject to these Terms.

## **Accounts**

You may be assigned an administrator account, in which case You will be able to add additional users from your company who will be subject to these Terms. Use of the Application requires the creation of a username and providing an email address. You must complete the specified registration process by providing us with current, complete, and accurate information as requested. It is your responsibility to maintain the currency, completeness, and accuracy of your registration data and any loss caused by your failure to do so is your responsibility. It is entirely your responsibility to maintain the confidentiality of your account. Additionally, You are entirely responsible for any and all activities that occur under your account. You agree to notify us immediately of any unauthorized use of your account. You further agree not to email, post, or otherwise disseminate any user ID, or other information which provides you access to your account. Company is not liable for any loss that you may incur as a result of someone else using your account, either with or without your knowledge.

## **Compatibility; Fees**

The use of Application requires internet access, which must be obtained from your service provider; you are responsible for obtaining and paying for such additional services and obtaining a suitable Device, including without limitation all usage charges related thereto. You are required to send and receive, at your cost, electronic communications related to the Application, including without limitation, administrative messages, service announcements, diagnostic data reports, and Updates, from Company, or third party service providers. You are solely responsible for obtaining any additional subscription or connectivity services or equipment necessary to access the Application, including but not limited to payment of all third party fees associated therewith, including fees or information sent to or through the Application. Company does not warrant that the Application will be compatible with your Device. If you download the Application, we may send you special offers and messages. These in-Application offers may have specific terms and conditions outlined in the offer. These in-Application offers and in-Application messages are integrated features of the Application. If You do not wish to receive these in-Application offers and in-Application messages, you must delete the Application. If you download the Application, with your permission, we may also push notifications to your Device. You will be able to opt out of push notifications in your Device’s settings.

## **Term and Termination**

The term of this Agreement commences when You download, install or acknowledge the Terms and will continue in effect until: (a) You delete the Application and all copies of the Application on your Device; (b) You violate any of these Terms; or (c) Company ceases to support the Application, which it may do so in its own discretion at any time without notice. Upon termination: (a) all rights granted to You under these Terms will terminate; and (b) You must cease all use of the Application and delete all copies of the Application on your Mobile Device. Termination will not limit any of Company's rights or remedies at law or in equity.

## **Disclaimer of Warranties**

THIS APPLICATION IS PROVIDED ON AN "AS IS, AS AVAILABLE" BASIS. NO WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO THOSE OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, ARE MADE WITH RESPECT TO THIS APPLICATION OR ANY INFORMATION OR SERVICE AVAILABLE THROUGH OR IN THE APPLICATION. WITHOUT LIMITATION TO THE FOREGOING, COMPANY MAKES NO REPRESENTATION OF ANY KIND THAT THE APPLICATION WILL MEET YOUR REQUIREMENTS, ACHIEVE ANY INTENDED RESULTS OR BE COMPATIBLE, OR WORK WITH ANY OTHER SOFTWARE, APPLICATIONS, SYSTEMS OR SERVICES, OPERATE WITHOUT INTERRUPTION, MEET ANY PERFORMANCE OR RELIABILITY STANDARDS, OR BE ERROR-FREE, OR THAT ANY ERRORS OR DEFECTS CAN OR WILL BE CORRECTED.

SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF OR LIMITATIONS ON IMPLIED WARRANTIES OR THE LIMITATIONS ON THE APPLICABLE STATUTORY RIGHTS OF A CONSUMER. THEREFORE, SOME OR ALL OF THESE EXCLUSIONS OR LIMITATIONS MAY NOT APPLY TO YOU.

WARRANTIES RELATING TO PRODUCTS OR SERVICES OFFERED, SOLD AND DISTRIBUTED BY COMPANY ARE SUBJECT TO SEPARATE WARRANTY TERMS AND CONDITIONS, IF ANY, PROVIDED WITH OR IN CONNECTION WITH THE APPLICABLE PRODUCTS OR SERVICES.

## **Limitation of Liability**

UNDER NO CIRCUMSTANCES, INCLUDING NEGLIGENCE, SHALL COMPANY BE LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES THAT RESULT FROM THE USE OF OR INABILITY TO USE THIS APPLICATION, NOR SHALL COMPANY BE RESPONSIBLE FOR ANY DAMAGES WHATSOEVER THAT RESULT FROM MISTAKES, OMISSIONS, INTERRUPTIONS, DELETION OF FILES, ERRORS, DEFECTS, DELAYS IN OPERATION OR TRANSMISSION, OR ANY FAILURE OF PERFORMANCE WHETHER OR NOT CAUSED BY EVENTS BEYOND COMPANY'S REASONABLE CONTROL, INCLUDING BUT NOT LIMITED TO ACTS OF GOD, COMMUNICATIONS LINE FAILURE, THEFT, DESTRUCTION, OR UNAUTHORIZED ACCESS TO THIS APPLICATION'S RECORDS, PROGRAMS, OR SERVICES. UNDER NO CIRCUMSTANCES, INCLUDING BUT NOT LIMITED TO A NEGLIGENT ACT, WILL COMPANY OR ITS AFFILIATES OR AGENTS BE LIABLE FOR ANY DAMAGE OF ANY KIND THAT RESULTS FROM THE USE OF, OR THE INABILITY TO USE, THE APPLICATION, EVEN IF COMPANY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. SOME JURISDICTIONS DO NOT ALLOW THE LIMITATION OR EXCLUSION OF LIABILITY FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES; AS A RESULT, THE ABOVE LIMITATION OR EXCLUSION MAY NOT APPLY TO YOU.

## **Indemnification**

You agree to indemnify, defend and hold harmless Company, and its affiliates and their respective shareholders, partners, owners, members, directors, officers, managers, employees, agents, parents, subsidiaries, successors, and assigns (“**Company Indemnified Parties**”) from and against any and all direct and third-party losses, damages, liabilities, deficiencies, claims, actions, judgments, settlements, awards, penalties, fines, costs or expenses of any kind, including reasonable attorneys’ fees and costs incurred by Company Indemnified Parties in connection with, arising out of or relating to: (i) your use or misuse of the Application; (ii) your breach of these Terms; or (ii) or any of your acts or omissions.

### **Export Policy and Restrictions**

You acknowledge that the Application may be subject to U.S. export control laws, including the Export Control Reform Act and its implementing regulations. You shall not, directly or indirectly, export, re-export, or release the Application to, or make the Application accessible from, any jurisdiction or country to which export, re-export, or release is prohibited by law, rule or regulation. You agree to comply with all applicable federal laws, regulations and rules, and complete all required undertakings prior to exporting, re-exporting, releasing or otherwise making the Application available outside of the U.S.

### **Governing Law**

These Terms will be governed by and construed in accordance with the internal laws of New York without regard to conflicts of laws principles. By using the Application, you agree that any and all disputes regarding these Terms will be subject to the courts located in New York, New York. YOU AGREE THAT, TO THE EXTENT PERMITTED BY APPLICABLE LAW, ANY AND ALL DISPUTES, CLAIMS, AND CAUSES OF ACTION ARISING OUT OF OR CONNECTED WITH THIS APPLICATION AND/OR THESE TERMS, WILL BE RESOLVED INDIVIDUALLY, WITHOUT RESORT TO ANY FORM OF CLASS ACTION. These terms operate to the fullest extent permissible by law.

### **Arbitration Agreement**

Agreement to Arbitrate All Disputes. Except as it relates to qualifying small claims and injunctive relief as explained below, You agree that any and all disputes, controversies, or claims arising between You and Company (each a “**Claim**” and collectively “**Claims**”), including but not limited to Claims arising out of or relating to the Application, use of the Application, these Terms and/or the [Privacy Policy](#), shall be settled by binding and final arbitration in accordance with the then prevailing Comprehensive Arbitration Rules and Procedures of JAMS (“**JAMS Rules and Procedures**”). The JAMS Rules and Procedures are available at <https://www.jamsadr.com/> or by calling (800) 352-5267. The arbitration will be heard and determined by a single arbitrator, who shall be selected pursuant to the JAMS Rules and Procedures. The arbitrator’s decision, judgment, or award in any such arbitration will be final and binding upon the parties and may be entered and enforced in any court having jurisdiction thereof. The Federal Arbitration Act (“**FAA**”) and federal arbitration law apply to this agreement. The arbitrator shall apply New York law consistent with the FAA and applicable statutes of limitations, and shall honor all claims of privilege recognized at law. For the avoidance of doubt, the arbitrator, and not any federal, state, or local court or agency, shall have the exclusive authority to resolve any dispute relating to the arbitrability of any Claims, the scope, applicability, interpretation, and enforcement of this arbitration agreement, and the interpretation, applicability, enforcement, formation of these Terms and/or the Privacy Policy.

Small Claims and Injunctive Relief. This arbitration agreement does not preclude You from pursuing qualifying small claims in small claims court. If your Claims qualify for small claims court, You may still assert your Claims in small claims court so long as the matter remains in such court and advances only on an individual (non-class, non-representative) basis. In addition, You and Company both retain the right to apply to any court of competent jurisdiction for provisional or injunctive relief, including for pre-arbitral

attachments or preliminary injunctions, and any such request shall not be deemed incompatible with these Terms, nor a waiver of the right to have disputes submitted to arbitration as provided in these Terms.

Class Waiver. You may not act as a class representative or private attorney general, nor may You participate as a member of a class of claimants with respect to any Claim. Claims may not be administered on a class or representative basis. The arbitrator can decide only your individual Claims. The arbitrator may not consolidate or join the Claims of any other person or parties who may be similarly situated.

Arbitration Costs and Procedures. If You initiate arbitration against Company, You will not be responsible for professional fees for the arbitrator's services or any other JAMS fees. If you are able to demonstrate that the costs of arbitration will be cost-prohibitive as compared to the costs of litigation, Company will pay as much of your filing and hearing fees in connection with the arbitration as the arbitrator deems necessary to prevent the cost of the arbitration from being cost-prohibitive. In the final award, the arbitrator may apportion the costs of arbitration and the compensation of the arbitrator among the parties in such amounts as the arbitrator deems appropriate. Pursuant to the JAMS Rules and Procedures, the arbitration shall proceed in a location determined by the arbitrator (provided that such location is reasonably convenient for You), or at such other location as may be mutually agreed upon by the parties.

Enforcement and Invalidity. If any part of this arbitration provision is deemed to be invalid, unenforceable or illegal (other than that claims will not be arbitrated on a class or representative basis), or otherwise conflicts with the rules and procedures established by JAMS, then the balance of this arbitration provision shall remain in effect and shall be construed in accordance with its terms as if the invalid, unenforceable, illegal or conflicting provision were not contained herein. If, however, the portion that is deemed invalid, unenforceable or illegal is that claims will not be arbitrated on a class or representative basis, then the entirety of this arbitration provision shall be null and void, and neither claimant nor Company shall be entitled to arbitrate their dispute.

THIS SECTION LIMITS CERTAIN RIGHTS, INCLUDING THE RIGHT TO MAINTAIN A COURT ACTION, THE RIGHT TO A JURY TRIAL, THE RIGHT TO PARTICIPATE IN ANY FORM OF CLASS OR REPRESENTATIVE CLAIM, THE RIGHT TO ENGAGE IN DISCOVERY EXCEPT AS PROVIDED IN THE JAMS RULES AND PROCEDURES, AND THE RIGHT TO CERTAIN REMEDIES AND FORMS OF RELIEF. OTHER RIGHTS THAT YOU OR COMPANY WOULD HAVE IN COURT ALSO MAY NOT BE AVAILABLE IN ARBITRATION.

### **Assignment**

Company may assign this agreement, in whole or in part, at any time with or without notice to You. You may not assign this agreement, or any part of it, to any other person. Any attempt by you to do so shall be void.

### **Miscellaneous**

These Terms constitute a binding agreement between You and Company and is accepted by You upon your use of the Application. These Terms constitute the entire agreement between You and Company regarding the use of the Application. Both You and Company acknowledge and agree that no partnership is formed and neither You nor Company has the power or the authority to obligate or bind the other. If Company fails to act with respect to your breach or anyone else's breach on any occasion, Company is not waiving its right to act with respect to future or similar breaches. If any provision of these Terms shall be unlawful, void or for any reason unenforceable, then that provision shall be deemed severable from these Terms and shall not affect the validity and enforceability of any remaining provisions.

