

## **ANIFUSION® CLOUD TERMS OF SERVICE**

**IMPORTANT - PLEASE READ THESE TERMS OF SERVICE CAREFULLY BEFORE PLACING YOUR ORDER AND BEFORE ACCESSING OR ATTEMPTING TO ACCESS ANIFUSION® CLOUD OR ANY RELATED SERVICES:**

By placing an order for a User Subscription:

- You are agreeing to these Terms of Service, which constitute a legal agreement between you (or the company or other legal entity you represent and on whose behalf you are authorised to act) and Millpledge Pharmaceuticals Limited (UK company registration number 01600381) of The Office Whinleys Estate, Church Lane, Clarbrough, Retford, Nottinghamshire, England, DN22 9NA ("Millpledge", "us", "our" or "we") for access to and use of the Service; and
- You represent and warrant to Millpledge that you have full power and authority to enter into this Agreement and that it is binding upon you (or the company or other legal entity you represent and on whose behalf you are authorised to act) and enforceable in accordance with its terms.

Your attention is particularly drawn to the provisions of clause 13 (Limitation of liability).

**You should print a copy of these Terms of Service for future reference.**

We may revise these Terms of Service from time to time. If you have an active Anifusion® Cloud subscription, we will let you know when we revise the terms via the Service on your next log-in. Please check the Terms of Service regularly to take notice of any changes we make, as they are binding on you. If you do not agree to and accept the revised Terms of Service, you will not be permitted to continue to access Anifusion® Cloud. Please contact us if you require any archived versions of these Terms of Service.

### **YOUR PRIVACY**

Under Data Protection Laws, we are required to provide you with certain information about who we are, how we process your personal data and for what purposes and your rights in relation to your personal data and how to exercise them. This information is provided in our privacy notice which can be found on our website *millpledge.com* and it is important that you read that information.

We will also act as a data processor processing on your behalf personal data contained within your Customer Data when you use our cloud-based software, in which case the provisions of clause 8 of these Terms of Service apply.

### **OTHER APPLICABLE TERMS**

The Millpledge Terms and Conditions of Sale will apply to the supply of Anifusion® products by Millpledge used by you in conjunction with the Service. Those Terms and Conditions of Sale can be found on our website *millpledge.com*.

## 1. DEFINITIONS USED IN THESE TERMS OF SERVICE

1.1 The definitions in this clause apply in these Terms of Service.

<b>“Access Key”</b>	an access key generated by Millpledge that enables you to use the Service subject to these Terms of Service.
<b>“Authorised Users”</b>	those employees, representatives, consultants, contractors or agents of the veterinary practice location for which you have purchased a User Subscription who are authorised by you to use the Service and the Documentation, for your benefit.
<b>“Customer”, “you” or “your”</b>	the person or entity identified in the applicable account record, online subscription process, or Order Form as the customer and, where the context requires, the particular practice location in respect of which the User Subscription has been purchased.
<b>“Customer Data”</b>	the data submitted, transmitted or collected via the Service by you, Authorised Users, or Millpledge on your behalf for the purpose of using the Service or facilitating your use of the Service, including Patient Records. Customer Data does not include Millpledge Content.
<b>“Data Protection Laws”</b>	all applicable data protection and privacy legislation in force from time to time in the UK including for the time being the General Data Protection Regulation ((EU) 2016/679); the Data Protection Act 2018 and the Privacy and Electronic Communications Regulations 2003, as amended and all other legislation and regulatory requirements in force from time to time which apply to a party relating to the use of personal data (including the privacy of electronic communications).
<b>“Documentation”</b>	the documents, videos and other content made available to you by Millpledge online via the Service and/or <i>anifusion.millpledge.com</i> or such other web address notified by Millpledge to you from time to time which sets out a description of the Service and the user instructions for the Service.

<b>“Free Trial”</b>	the Service or other products or features made available by Millpledge to you on an unpaid trial or free basis.
<b>“Millpledge Content”</b>	all information, data, text, messages, software, sound, music, video, photographs, graphics, images, and tags that Millpledge incorporates into the Service, including the Millpledge Database.
<b>“Millpledge Database”</b>	the database of information relating to infusion fluids, drugs and equipment that Millpledge may make available to you as part of the Service, for example for you to select as a drop-down option. The Millpledge Database does not include Personal Data.
<b>“Order” or “Order Form”</b>	the Millpledge-approved form or online subscription process by which you agree to subscribe to the Service. Orders are completed through our online payment process or directly with us.
<b>“Patient Record”</b>	the data submitted, transmitted or collected via the Service by you or your Authorised Users in respect of infusion via an Anifusion® pump for an individual patient.
<b>“Personal Data”</b>	any information relating to an identified or identifiable individual where such information is contained within Customer Data and is protected as personal data or personally identifiable information under applicable Data Protection Laws.
<b>“Service”</b>	the web-based subscription services that you have subscribed to under an Order Form and that Millpledge provides to you under these Terms of Service accessible via <i>anifusion.millpledge.com</i> or any other website notified to you by Millpledge from time to time, as more particularly described in the Documentation.
<b>“Software”</b>	the online software applications, tools and platforms provided by Millpledge as part of the Service.
<b>“Special Category Data”</b>	personal data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs,

	or trade union membership, genetic data, biometric data (where used for identification purposes), data concerning health, a person's sex life or a person's sexual orientation or any other any information defined under Data Protection Laws as 'special category data' or 'sensitive personal data'.
<b>"Subscription Fees"</b>	the subscription fees payable by you to Millpledge for the User Subscription(s), as set out in the Order Form.
<b>"Subscription Term"</b>	The period specified in your Order Form or as shown in your User Subscription account.  For Free Trials, the Subscription Term will be the period during which you have an account to access the Free Trial.
<b>"Terms of Service" or "this Agreement"</b>	these Terms of Service and all materials referred or linked to in them.
<b>"User Subscription"</b>	the user subscription purchased by you for each veterinary practice location pursuant to clause 9.1 (each with a unique user identification and password for the Service) which entitle Authorised Users to access and use the Service and the Documentation for your benefit in accordance with these Terms of Service.

## 2. **USE OF SERVICE**

- 2.1 In consideration of the Subscription Fee paid by you and subject to the terms and restrictions set out in these Terms of Service, Millpledge hereby grants to you a non-exclusive, non-transferable right, without the right to grant sublicences, to permit your Authorised Users to use the Service and the Documentation during the Subscription Term solely for your internal business operations.
- 2.2 If you register for a Free Trial, Millpledge will make the applicable Service available to you on a trial basis free of charge, subject to any limits and additional terms and conditions on the Free Trial registration web page, until the earlier of (a) the end of the Free Trial Subscription Term (if not terminated earlier) or (b) the start date of your paid User Subscription(s). Unless you purchase a User Subscription before the end of the Free Trial, all of your Customer Data in the Service may be permanently deleted at the end of the Free Trial. You acknowledge and agree that when the Free Trial comes to an end without the purchase of a User Subscription before the end of the Free Trial, then Millpledge will not provide you with any access to Patient Records or Customer Data

after termination or expiration of your Subscription Term, in accordance with clause 14.9.

- 2.3 Your access to and use of the Service shall be enabled by the use of an Access Key.
- 2.4 You acknowledge and accept that the Access Key authorisation process requires the transmission of data regarding your network connections to Millpledge and you consent to such transmission. If any personal data is transmitted as part of the Access Key authorisation process, Millpledge shall process such personal data in accordance with its privacy policy, available at *millpledge.com*.
- 2.5 You may not use the Service if you are legally prohibited from receiving or using the Service under the laws of the country in which you are resident or from which you access or use the Service.
- 2.6 In relation to the Authorised Users, you undertake that:
  - 2.6.1 the maximum number of veterinary practice locations that you authorise to access and use the Service and the Documentation shall not exceed the number of User Subscriptions you have purchased from time to time. If you wish to access the Service from more than one veterinary practice location, you will need to purchase another User Subscription for that other veterinary practice location;
  - 2.6.2 you will not allow or suffer any User Subscription to be used by more than one veterinary practice location unless it has been reassigned in its entirety, with Millpledge's prior written consent, to another individual veterinary practice location, in which case the prior veterinary practice location shall no longer have any right to access or use the Service and/or Documentation;
  - 2.6.3 each veterinary practice location shall keep secure and confidential the log in details and password for the User Subscription under which they are permitted to use the Service and Documentation, and that such password shall be changed as required by us, being no less frequently than every 6 months;
  - 2.6.4 Millpledge may monitor or audit remotely the number of locations accessing the Service via each User Subscription and you permit Millpledge or Millpledge's designated auditor to audit the Service, and have access to any records kept by you in connection with the Service, for the purposes of ensuring compliance with these Terms of Service. Each such audit may be conducted no more than once per quarter, at Millpledge's expense, and this right shall be exercised with reasonable prior notice, in such a manner as not to substantially interfere with your normal conduct of business; and

- 2.6.5 if any of the audits referred to in clause 2.6.4 reveal that you have underpaid Subscription Fees to Millpledge, then without prejudice to Millpledge's other rights, you shall pay to Millpledge in accordance with Millpledge's standard payment terms an amount equal to such underpayment as calculated in accordance with the then current prices for User Subscriptions.
- 2.7 When you purchase a User Subscription, or register for a Free Trial, all Authorised Users will have the opportunity to add, amend and delete Customer Data (including Patient Records and amending notification settings, priorities, and records of equipment, fluids and pricing added to a particular Patient Record). You are responsible for all access by and any such actions of your Authorised Users.
- 2.8 The rights provided under this clause 2 are granted to you only, and shall not be considered granted to any subsidiary or holding company of yours.

### 3. **SERVICE**

- 3.1 Millpledge shall, during the Subscription Term, provide the Service and make available the Documentation to you on and subject to the terms of these Terms of Service.
- 3.2 Any descriptions or illustrations on the Millpledge website or within our Service are published for the sole purpose of giving an approximate idea of the services described in them. They will not form part of this Agreement or have any contractual force.
- 3.3 Millpledge shall use commercially reasonable endeavours to make the Service available 24 hours a day, seven days a week, except for planned down-time for maintenance and for unscheduled or emergency maintenance. Millpledge will use reasonable endeavours to give you at least 24 hours' notice of any down-time in advance.
- 3.4 Millpledge is not responsible for any (i) any problems resulting from your combining or merging the Service with any hardware or software not supplied by Millpledge or not identified by it in writing as compatible with the Service; (ii) interruptions or delays in providing the service resulting from telecommunications or internet service provider failures outside of its data center; and (iii) any interruption or unavailability resulting from the misuse, improper use, alteration, or damage of the Service.
- 3.5 Millpledge will, as part of the Service and at no additional cost to you provide you with Millpledge's standard customer telephone support services during its normal business hours of 9am – 4pm (local time) in accordance with Millpledge's standard policy for providing telephone support in relation to the Service in effect at the time that the Service is provided. Millpledge may amend its policy for providing support in its sole and absolute discretion from time to time.
- 3.6 Millpledge may modify the Service from time to time, including by adding or deleting features and functions, as required by applicable statutory or regulatory requirements or in an effort to improve your experience.

- 3.7 Millpledge may change the limits that apply to your Free Trial at any time in its sole discretion without notice to you, regardless of whether or not these are used in conjunction with other products or services for which you pay Millpledge a fee.
- 3.8 The Service records outputs from and the current status of the Millpledge Anifusion® products connected to it by you and with the product parameters set by you and/or your Authorised Users. You acknowledge that the Service is not designed or intended to give any indication of the medical or physical condition of a patient.
- 3.9 The Service and any reporting tools provided as part of the Service are not intended to be used as systems of record for financial, tax, employee commission, or other regulatory compliance or reporting. You are responsible for ensuring the accuracy of reports derived using the reporting tools provided as part of the Service.

#### 4. **CUSTOMER OBLIGATIONS**

- 4.1 It is your responsibility to ensure that:
  - 4.1.1 the terms of your Order and the Customer Data you provide are complete and accurate;
  - 4.1.2 you co-operate with Millpledge in all matters relating to the Service;
  - 4.1.3 you obtain and maintain all necessary licences, permissions and consents which may be required for your use of the Service before the date on which the User Subscription is to start;
  - 4.1.4 without affecting your other obligations under these Terms of Service, you comply with all applicable laws and regulations with respect to your activities under these Terms of Service;
  - 4.1.5 the Authorised Users use the Service and the Documentation in accordance with these Terms of Service and you shall be responsible for any Authorised User's breach of these Terms of Service; and
  - 4.1.6 your network and systems comply with the relevant specifications provided by Millpledge from time to time.
- 4.2 To the extent permitted by law and except as otherwise expressly provided in these Terms of Service, you are solely responsible for procuring, maintaining and securing your computer software, hardware, network connections and telecommunications links from your systems to Millpledge's data centres, and for all problems, conditions, delays, impairments, delivery failures and all other loss or damage arising from or relating to your network connections or telecommunications links or caused by the internet. You acknowledge that Patient Records may be incomplete or lost entirely in the event of any loss in connection.

4.3 You shall not introduce or permit the introduction of any viruses, corrupted files, or any other similar software or programs that may damage the operation of Millpledge's computer software, hardware or network and information systems, or any material during the course of your use of the Service that:

4.3.1 is unlawful, harmful, threatening, defamatory, obscene, infringing, harassing or racially or ethnically offensive;

4.3.2 facilitates illegal activity;

4.3.3 depicts sexually explicit images;

4.3.4 promotes unlawful violence;

4.3.5 is discriminatory based on race, gender, colour, religious belief, sexual orientation, disability; or

4.3.6 is otherwise illegal or causes damage or injury to any person or property.

Millpledge is not obligated to, but may choose to, without liability or prejudice to its other rights, remove any prohibited materials and disable your access to any material that breaches the provisions of this clause.

4.4 You will not:

4.4.1 except as may be allowed by any applicable law and except to the extent expressly permitted under these Terms of Service:

4.4.1.1 attempt to copy, modify, duplicate, create derivative works from, frame, mirror, republish, download, display, transmit, or distribute all or any portion of the Software and/or Documentation (as applicable) in any form or media or by any means; or

4.4.1.2 attempt to de-compile, reverse compile, disassemble, reverse engineer or otherwise reduce to human-perceivable form all or any part of the Software;

4.4.2 access all or any part of the Service and Documentation in order to build a product or service which competes with the Service and/or the Documentation;

4.4.3 use the Service and/or Documentation to provide services to third parties;

4.4.4 subject to clause 16.9, license, sell, rent, lease, transfer, assign, distribute, display, disclose, or otherwise commercially exploit, or otherwise make the Service and/or Documentation available to any third party except the Authorised Users;



- 4.4.5 attempt to obtain, or assist third parties in obtaining, access to the Service and/or Documentation, other than as provided under clause 2;
  - 4.4.6 use the Service in contravention of any applicable law or regulation, including all export laws and regulations;
  - 4.4.7 use the Service in any manner that damages, disables, overburdens, or impairs any of Millpledge's systems or interferes with any other party's use of the Service;
  - 4.4.8 access the Service other than through the Millpledge interface; or
  - 4.4.9 use the Service to gain unauthorised access to, use, monitor, make an unauthorised reference to, another's property, unless you have the appropriate express prior consent to do so.
- 4.5 You shall keep confidential the Access Key, Software and Documentation and you shall use all reasonable endeavours to prevent any unauthorised access to, or use of, your Access Key, the Service and/or the Documentation.
- 4.6 If you become aware of or learn or suspect:
- 4.6.1 any misuse of the Service;
  - 4.6.2 any unauthorised use, disclosure, reproduction, or distribution of the Access Key, Service, Software or Documentation, which comes to your attention, or which you reasonably suspect;
  - 4.6.3 any security breach in connection with the Service that could compromise the security or integrity of the Software or otherwise adversely affect Millpledge; or
  - 4.6.4 that your username or password, the Access Key or any other security feature has been revealed to or obtained by any unauthorised person,
- you must promptly notify Millpledge at [sales@millpledge.com](mailto:sales@millpledge.com) and fully co-operate with Millpledge to remedy the issue as soon as reasonably practicable.
- 4.7 You hereby accept and agree to assume full responsibility for:
- 4.7.1 determining any export control legal requirements applicable to any export, direct or indirect, of any technical data acquired under this Agreement (including any data file provided as part of the Service); and
  - 4.7.2 obtaining any licence or other governmental approval or authorisation required under export control legal requirements for any direct or indirect exports or re-exports of the Customer Data, Millpledge Content and/or any data file provided as part of the Services.

4.8 You hereby warrant that you will not use or otherwise export or re-export, directly or indirectly, the Customer Data, Millpledge Content and/or any data file provided as part of the Service, except as authorised by and in compliance with applicable export control legal requirements.

## 5. **MILLPLEDGE OBLIGATIONS**

5.1 Millpledge undertakes that the Service will be provided substantially in accordance with the Documentation and with reasonable skill and care.

5.2 The undertaking at clause 5.1 shall not apply to the extent of any non-conformance which is caused by:

5.2.1 use of the Service contrary to Millpledge's instructions, or

5.2.2 modification or alteration of the Service by any party other than Millpledge or Millpledge's duly authorised contractors or agents.

5.3 If the Service does not conform with the undertaking set out in clause 5.1, Millpledge will, at its expense, use all reasonable commercial endeavours to correct any such non-conformance promptly. Such correction constitutes your sole and exclusive remedy for any breach of the undertaking set out in clause 5.1.

5.4 Millpledge:

5.4.1 does not warrant that:

5.4.1.1 your use of the Service will be uninterrupted or error-free; or

5.4.1.2 that the Service, Documentation and/or the information obtained by you through the Service will meet your requirements; or

5.4.1.3 that the Service will be free from vulnerabilities, viruses and other similar things or devices or problems inherent in the use of such equipment and facilities which may impair or otherwise adversely affect the operation of your computer software, hardware or network.

5.4.1.4

5.4.2 is not responsible for any delays, delivery failures, or any other loss or damage resulting from the transfer of data over communications networks and facilities, including the internet, and you acknowledge that the Service and Documentation may be subject to limitations, delays and other problems inherent in the use of such communications facilities. You acknowledge that Patient Records may be incomplete or lost entirely in the event of any loss in connection

## 6. **CUSTOMER DATA**

- 6.1 You shall own all right, title and interest in and to all of your Customer Data and shall have sole responsibility for the legality, reliability, integrity, accuracy and quality of all such Customer Data.
- 6.2 Millpledge will maintain commercially appropriate technical and organisational measures to ensure a level of security appropriate to the risk to protect Patient Records. In the event of any loss or damage to your Customer Data and/or Patient Records, your sole and exclusive remedy against Millpledge shall be for Millpledge to use reasonable commercial endeavours to restore the lost or damaged Customer Data and/or Patient Records from the latest back-up maintained by Millpledge (or its hosting provider).
- 6.3 Millpledge shall not be responsible for any loss, destruction, alteration or disclosure of your Customer Data caused by any third party.
- 6.4 Millpledge strongly encourages you to take appropriate measures to secure, store and backup your important information and Customer Data (including Patient Records).
- 6.5 Millpledge shall, in providing the Service, follow its standard privacy and security procedures to protect the privacy and security of your Customer Data, as such procedures may be amended from time to time by Millpledge in its sole discretion.
- 6.6 Millpledge has no duty (unless applicable laws or regulations provide otherwise) to pre-screen, control, monitor or edit your Customer Data.
- 6.7 You agree that Millpledge may access and use your Customer Data for the purposes of providing support to you or your Authorised Users when requested, for security purposes, to develop and improve the Service as part of internal data processes, as permitted by applicable law and these Terms of Service and/or for the purposes of collecting and aggregating data as described in clause 6.8.
- 6.8 Millpledge may monitor use of the Service by all of its customers and use the information gathered in an aggregate and anonymous manner. You agree that Millpledge may use and publish such information, provided that such information does not identify you. For clarity, any data provided to other customers or third parties will only be in an aggregated and anonymous manner. Millpledge uses Customer Data in an anonymised manner for reporting purposes, including providing aggregated data to corporate groups of their member veterinary practices, and for machine learning that supports certain product features and/or functionality within the Service.
- 6.9 This clause 6 shall survive termination or expiry of the Subscription Term.

## 7. **MILLPLEDGE CONTENT**

- 7.1 The Millpledge Database includes data gathered from public and third party sources. It is updated in real-time as new information is received.

- 7.2 You agree that Millpledge may use any of your Customer Data relating to infusion fluids, equipment, drugs, treatment conditions and/or any other information within the Patient Record to populate the Millpledge Database for your benefit and for the benefit of Millpledge and its other customers, including for machine learning that supports certain product features and/or functionality within the Service. Millpledge will never share your pricing information with other customers.
- 7.3 If Millpledge makes any data contained within the Millpledge Database available to you, then you may only use that data in connection with your use of the Service. Millpledge may change the Millpledge Database and/or what data it provides to you, or discontinue providing all or any part of the Millpledge Database at any time with or without notice to you.

## 8. DATA PROTECTION

- 8.1 Both parties will comply with all applicable requirements of the Data Protection Laws. This clause 8 is in addition to, and does not relieve, remove or replace, a party's obligations or rights under the Data Protection Laws.
- 8.2 Millpledge will process any personal information you provide to it as data controller to provide the Service, process your payment of the Subscription Fee and to inform you about similar services that it provides (but you may stop receiving these at any time by contacting Millpledge). Further details of how Millpledge will process personal information are set out in its Privacy Notice available at [millpledge.com](http://millpledge.com).
- 8.3 The parties acknowledge that:
- 8.3.1 if Millpledge processes any Personal Data on your behalf when performing its obligations under these Terms of Service, you are the controller and Millpledge is the processor for the purposes of the Data Protection Laws.
- 8.3.2 Millpledge will process the Personal Data on your behalf for the purpose of performing its obligations under these Terms of Service for the duration required in the performance such obligations and any related agreement between you and Millpledge covering the use of the Service or such shorter period where the processing is no longer authorised or no longer necessary for the purpose of performing its obligations under these Terms of Service or for compliance with Applicable Laws. The Personal Data may concern the following categories of data: names; usernames; positions; location; email addresses; postal addresses; contact telephone numbers; security questions and answers and information on acceptance of these Terms of Service. The categories of data subject include Authorised Users (the natural persons who are authorised by use to use the Service and Documentation); you (the person requesting information about and/or purchasing User Subscriptions, which may be an individual acting in their own right or acting on behalf of another person or business) and your

personnel (the natural persons acting on your behalf, if different to the Authorised Users).

8.3.3 the Personal Data may be transferred or stored outside the EEA or the country where you and the Authorised Users are located in order to carry out the Service and Millpledge's other obligations under these Terms of Service provided that the following conditions are fulfilled:

8.3.3.1 you or Millpledge has provided appropriate safeguards in relation to the transfer;

8.3.3.2 the data subject has enforceable rights and effective legal remedies;

8.3.3.3 Millpledge complies with its obligations under the Data Protection Laws by providing an adequate level of protection to any Personal Data that is transferred; and

8.3.3.4 Millpledge complies with reasonable instructions notified to it in advance by you with respect to the processing of the Personal Data.

8.4 Without prejudice to the generality of clause 8.1, you will ensure that you have all necessary appropriate consents and notices in place to enable lawful transfer of any Personal Data to Millpledge for the duration and purposes of these Terms of Service so that Millpledge may lawfully use, process and transfer the Personal Data in accordance with these Terms of Service on your behalf.

8.5 You acknowledge that the Service has not been designed to collect, process or manage any Special Category Data and accordingly you agree not to use the Service to collect, manage or process Special Category Data. Millpledge will not have any liability that arises from your use of the Service to collect, process or manage Special Category Data.

8.6 Without prejudice to the generality of clause 8.1, Millpledge shall, in relation to any Personal Data processed in connection with the performance by Millpledge of its obligations under these Terms of Service:

8.6.1 process that Personal Data only on your documented written instructions including those contained in these Terms of Service unless Millpledge is required by any applicable law to process the Personal Data;

8.6.2 assist you, at your cost, in responding to any request from a data subject and in ensuring compliance with your obligations under the Data Protection Laws with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;

8.6.3 notify you without undue delay on becoming aware of a Personal Data breach affecting the Customer Data;

- 8.6.4 at your written direction within thirty (30) days of the termination or expiry of your Subscription Term, delete or return to you Personal Data contained within the Customer Data held by Millpledge and copies thereof, unless required by applicable laws to store the Personal Data (and for these purposes the term "delete" shall mean to put such data beyond use); and
- 8.6.5 maintain complete and accurate records and information to demonstrate its compliance with this clause 8 and immediately inform you if, in the opinion of Millpledge, an instruction from you infringes the Data Protection Laws.
- 8.7 Each party shall ensure that it has in place appropriate technical and organisational measures to protect against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures (those measures may include, where appropriate, pseudonymising and encrypting personal data, ensuring confidentiality, integrity, availability and resilience of systems and services, ensuring that availability of and access to personal data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the technical and organisational measures adopted).
- 8.8 You consent to Millpledge appointing third-party processors of Personal Data under these Terms of Service in connection with the performance by Millpledge of its obligations under these Terms of Service. Millpledge confirms that it has entered or (as the case may be) will enter with the third-party processor into a written agreement to reflect the requirements of the Data Protection Laws. As between you and Millpledge, Millpledge shall remain fully liable for all acts or omissions of any third-party processor appointed by it pursuant to this clause.
- 8.9 Either party may, at any time on not less than 30 days' notice, revise this clause 8 by replacing it with any applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme.

## 9. **SUBSCRIPTION FEES**

- 9.1 You shall pay the Subscription Fees to Millpledge for the User Subscriptions in advance at the time you place your Order (except for Free Trials).
- 9.2 All amounts and fees stated or referred to in these Terms of Service:
- 9.2.1 shall be payable in the currency as stated in your Order;
- 9.2.2 are non-cancellable and non-refundable;

9.2.3 are exclusive of value added tax, any similar sales tax or any tax that replaces such sales taxes, which if applicable shall be added at the appropriate rate.

9.3 If, at any time whilst using the Service, you exceed the expected frequency and volume of notifications, Millpledge reserves the right to charge you, and you shall pay in accordance with Millpledge's standard payment terms, Millpledge's then current excess notification fees.

## 10. **INTELLECTUAL PROPERTY RIGHTS**

10.1 You acknowledge and agree that Millpledge and/or its licensors own all intellectual property rights in the Access Key, Software, Service and the Documentation. Except as expressly stated herein, these Terms of Service does not grant you any rights to, under or in, any patents, copyright, database right, trade secrets, trade names, trade marks (whether registered or unregistered), or any other rights or licences in respect of the Access Key, Software, Service or the Documentation.

10.2 You agree not to copy, rent, lease, sell, distribute, or create derivative works based on the Millpledge Content, the Service, in whole or in part, by any means, except as expressly authorized in writing by Millpledge.

10.3 As between you and Millpledge, you own and retain all rights to the Customer Data. You hereby grant Millpledge a fully paid-up, non-exclusive, royalty-free, non-transferable licence to store, use, copy and modify any Customer Data provided by you or your Authorised Users to us for the purpose of providing the Services to you and as permitted by these Terms of Service.

10.4 You hereby grant Millpledge a fully paid-up, non-exclusive, royalty-free, non-transferable licence to store, use and publish your name and logo for purposes of adding it to your User Subscription(s) account(s) and in its publicity materials.

10.5 The integrity of the Access Key and the Software is protected by technical protection mechanisms ("TPM") so that Millpledge's ownership of and rights in the Access Key and Software are not misappropriated. You must not attempt, or procure that a third party attempts, in any way to remove or circumvent any such TPM, nor apply or manufacture for sale or hire, import, distribute, sell or let for hire, offer or expose for sale or hire, advertise for sale or hire or have in your possession for private or commercial purposes any means the sole intended purpose of which is to facilitate the unauthorised removal or circumvention of such TPM.

## 11. **CONFIDENTIALITY**

11.1 Each party shall, during the Subscription Term and thereafter, keep confidential, and shall not use for its own purposes (other than as expressly permitted by these Terms of Service or for the purposes of the implementation of this Agreement) nor without the prior written consent of the other disclose to any third party (except its professional

advisors or as may be required by any law or any legal or regulatory authority or by a court or other authority of competent jurisdiction) any information of a confidential nature (including trade secrets and information of commercial value) which may become known to such party from the other party and which relates to the other party or any of its affiliates ("**Confidential Information**"), unless that information is public knowledge or already known to such party at the time of disclosure, or subsequently becomes public knowledge other than by breach of these Terms of Service, or subsequently comes lawfully into the possession of such party from a third party without restriction on disclosure. Each party shall use its reasonable endeavours to prevent the unauthorised disclosure of any such information.

- 11.2 Each party shall take all reasonable steps to ensure that the other's Confidential Information to which it has access is not disclosed or distributed by its employees or agents in breach of the terms of these Terms of Service.
- 11.3 You acknowledge that details of the Service, and the results of any performance tests of the Service, constitute Millpledge's Confidential Information.
- 11.4 Millpledge acknowledges that your Customer Data is your Confidential Information.
- 11.5 Neither party shall make, or permit any person to make, any public announcement concerning these Terms of Service without the prior written consent of the other (such consent not to be unreasonably withheld or delayed), except as required by law, any governmental or regulatory authority (including, without limitation, any relevant securities exchange), any court or other authority of competent jurisdiction.
- 11.6 This clause 11 shall survive termination or expiry of the Subscription Term.

## 12. **INDEMNITY**

- 12.1 You shall defend, indemnify and hold harmless Millpledge against claims, actions, proceedings, losses, damages, expenses and costs (including without limitation court costs and reasonable legal fees) arising out of or in connection with:
  - 12.1.1 any unauthorised or illegal use of the Service and/or Documentation by you or your Authorised Users;
  - 12.1.2 the unauthorised use of the Service by any other person using your User Subscription information; or
  - 12.1.3 your or your Authorised Users' noncompliance with or breach of these Terms of Service.
- 12.2 Millpledge will give you prompt notice of any such claim and will provide reasonable co-operation to you in the defence and settlement of such claim, at your expense, and you will have sole authority to defend or settle the claim provided that you will not accept any settlement that (i) imposes an obligation on Millpledge; (ii) requires



Millpledge to make an admission; or (iii) places restrictions on Millpledge without its prior written consent.

12.3 This clause 12 shall survive termination or expiry of the Subscription Term.

### 13. **LIMITATION OF LIABILITY**

13.1 Except as expressly and specifically provided in these Terms of Service:

13.1.1 you assume sole responsibility for results obtained from the use of the Service and the Documentation by you, and for conclusions drawn from such use. Millpledge shall have no liability for any damage caused by errors or omissions in any information, instructions or scripts provided by you in connection with the Service, or any actions taken by Millpledge at your direction;

13.1.2 you acknowledge that you have not relied on any statement, promise or representation or assurance or warranty that is not set out in these Terms of Service or any material expressly referred or linked to in them and that you shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in these Terms of Service or any material expressly referred or linked to in them;

13.1.3 all warranties, representations, conditions and all other terms of any kind whatsoever implied by statute or common law are, to the fullest extent permitted by applicable law, excluded from these Terms of Service; and

13.1.4 the Service and the Documentation are provided to you on an "as is" basis.

13.2 Nothing in these Terms of Service excludes the liability of Millpledge:

13.2.1 for death or personal injury caused by Millpledge's negligence; or

13.2.2 for fraud or fraudulent misrepresentation; or

13.2.3 breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession).

13.3 Subject to clause 13.1 and clause 13.2:

13.3.1 Millpledge shall not be liable whether in tort (including for negligence or breach of statutory duty), contract, misrepresentation, restitution or otherwise for any (i) loss of profits, (ii) loss of business, (iii) depletion of goodwill and/or similar losses, (iv) loss or corruption of data or information, (v) pure economic loss, or (vi) for any special, indirect or consequential loss, costs, damages, charges or expenses however arising under these Terms of Service even if it was aware of the circumstances in which such loss or damage could arise; and

13.3.2 Millpledge's total aggregate liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the performance or contemplated performance of these Terms of Service shall be limited to an amount equal to the total Subscription Fees paid during the Subscription Term for the User Subscription in respect of which the claim arose, provided however that this limitation shall not apply to you if you only use Service under a Free Trial in which case, if we are determined to have any liability to you or any third party arising from your use of the Service under a Free Trial, then Millpledge's aggregate liability will be limited to £50.00.

13.4 These Terms of Service set out the full extent of Millpledge's obligations and liabilities in respect of the supply of the Service and the exclusions in this clause 13 shall apply to the fullest extent permissible by applicable law.

13.5 This clause 13 will survive termination or expiry of the Subscription Term.

#### 14. **TERM AND TERMINATION**

14.1 Each User Subscription shall, unless otherwise terminated as provided in this clause 14, commence on the date the relevant User Subscription is activated and shall continue until the end of the Subscription Term, when it shall terminate automatically without notice. We shall endeavour to remind you before your User Subscription expires.

14.2 Millpledge does not provide refunds if you decide to stop using the Service during your Subscription Term.

14.3 Without affecting any other right or remedy available to it, Millpledge reserves the right to disable your account and access to all or part of the Service, without notice and without liability, if you commit a material or persistent breach of these Terms of Service.

14.4 Without affecting any other right or remedy available to it, Millpledge may suspend your account and/or terminate any User Subscription without liability with immediate effect by giving written notice to you if:

14.4.1 you or any Authorised User commits a material or persistent breach of these Terms of Service;

14.4.2 you take any step or action in connection with your entering administration, provisional liquidation, bankruptcy, or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business or, if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction;

- 14.4.3 Millpledge determines that your actions or omissions have negatively reflected or may negatively reflect on or affect it, its prospects, or its other customers; or
- 14.4.4 you are subject to a change of control (as defined in section 1124 of the Corporation Tax Act 2010).
- 14.5 Millpledge may suspend, limit, or terminate a Free Trial for any reason at any time without notice. It may terminate your subscription to the Free Trial due to your inactivity.
- 14.6 On termination or expiry of the Subscription Term all licences granted under these Terms of Service shall immediately terminate and you shall immediately cease all use of and access to the Service and/or the Documentation.
- 14.7 On your written request within thirty (30) days after the termination or expiration of your Subscription Term, Millpledge will provide you with temporary access to the Service to retrieve all Patient Records within your account then in its possession or control. If Millpledge provides you with temporary access to the Service for this purpose, it may charge a re-activation fee. If it does not receive a written request from you within thirty (30) days after the termination or expiration of your Subscription Term, Millpledge will have no obligation to maintain your Patient Records.
- 14.8 Millpledge may destroy or otherwise dispose of any of your Customer Data (including, for the avoidance of doubt, Patient Records) in its systems or otherwise in its possession or control, unless:
  - 14.8.1 Millpledge receives a request for access to retrieve Patient Records under clause 14.7;
  - 14.8.2 Millpledge receives, no later than thirty (30) days after the effective date of the termination of or expiration of your Subscription Term, a written request for the delivery to you of the then most recent back-up of your Customer Data. Millpledge shall use reasonable commercial endeavours to deliver the back-up to you within 30 days of its receipt of such a written request, provided that you have, at that time, paid all reasonable expenses incurred by Millpledge in returning the Customer Data; or
  - 14.8.3 Millpledge is legally prohibited from destroying or otherwise disposing of the Customer Data.
- 14.9 For Free Trials, Millpledge will not provide you with any access to or copies of Patient Records or Customer Data after termination or expiration of your Free Trial Subscription Term. If you want to retain any Patient Records after your Free Trial Subscription Term ends, Millpledge recommends that you export that data from your account in advance.

- 14.10 Termination or expiry of the Subscription Term will not affect any rights, remedies, obligations or liabilities that have accrued as at termination or expiry, including the right to claim damages in respect of any breach which existed at or before the date of termination or expiry.
- 14.11 Any provision of this Agreement that expressly or by implication is intended to come into or continue in force on or after termination or expiry will remain in full force and effect.

15. **FORCE MAJEURE**

Millpledge shall have no liability to you under these Terms of Service if it is prevented from or delayed in performing its obligations under these Terms of Service, or from carrying on its business, by acts, events, omissions or accidents beyond its reasonable control, including, without limitation, strikes, lock-outs or other industrial disputes (whether involving the workforce of Millpledge or any other party), failure of a utility service or transport or telecommunications network, act of God, war, riot, civil commotion, epidemic or pandemic, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of suppliers or sub-contractors.

16. **GENERAL**

- 16.1 Clause headings shall not affect the interpretation of these Terms of Service.
- 16.2 A reference to a statute or statutory provision is a reference to it as it is in force as at the date of these Terms of Service and shall include all subordinate legislation made as at the date of these Terms of Service under that statute or statutory provision.
- 16.3 Any words following the terms including, include, for example or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.
- 16.4 Any provision of these Terms of Service that expressly or by implication is intended to come into or continue in force on or after termination or expiry of the Subscription Term shall remain in full force and effect.
- 16.5 No failure or delay by a party to exercise any right or remedy provided under these Terms of Service or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.
- 16.6 If any provision or part-provision of these Terms of Service is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of these Terms of Service.

- 16.7 These Terms of Service, along with any material expressly referred or linked to in them, constitute the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.
- 16.8 Millpledge might make versions of these Terms of Service available in languages other than English. If it does, the English version will prevail and will govern this relationship. The translated version is provided for convenience only and will not be interpreted to modify the English version of these Terms of Service.
- 16.9 You shall not, without the prior written consent of Millpledge, assign, transfer, charge, sub-contract or deal in any other manner with all or any of your rights or obligations under these Terms of Service.
- 16.10 Millpledge may at any time assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under these Terms of Service.
- 16.11 Nothing in these Terms of Service is intended to or shall operate to create a partnership between the parties, or authorise either party to act as agent for the other, and neither party shall have the authority to act in the name or on behalf of or otherwise to bind the other in any way (including, but not limited to, the making of any representation or warranty, the assumption of any obligation or liability and the exercise of any right or power).
- 16.12 These Terms of Service do not confer any rights on any person or party (other than the parties to these Terms of Service and, where applicable, their successors and permitted assigns) pursuant to the Contracts (Rights of Third Parties) Act 1999.

## 17. **COMMUNICATIONS BETWEEN US**

- 17.1 If a problem arises or you are dissatisfied with the Service, please contact Millpledge on +44 1777 708440 or at sales@millpledge.com. How to give formal notice of any matter under these Terms of Service is set out in this clause below.
- 17.2 When referring to "in writing" in these Terms of Service, this includes email.
- 17.3 Any notice required to be given under these Terms of Service shall be in writing and shall be delivered by hand or sent by pre-paid first-class post or recorded delivery post to the other party at its main business address, or such other address as may have been notified by that party for such purposes, or sent by email (which if sent to you shall be the email address on record in your account information and if sent to Millpledge shall be sales@millpledge.com). Millpledge may give electronic notices by general notice via the Service and may give electronic notices specific to you by email, as described above. You must keep all of your account information current.
- 17.4 A notice delivered by hand shall be deemed to have been received when delivered (or if delivery is not in business hours, at 9 am on the first business day in the place of

receipt following delivery). A correctly addressed notice sent by pre-paid first-class post or recorded delivery post shall be deemed to have been received at the time at which it would have been delivered in the normal course of post. A notice sent by email shall be deemed to have been received at the time of transmission (as shown by the timed printout obtained by the sender and provided that no notice of non-delivery is received).

17.5 Any notice given under or in connection with these Terms of Service shall be in English. All other documents provided under or in connection with these Terms of Service shall be in English, or accompanied by a certified English translation the English language version shall prevail if there is a conflict.

17.6 This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

## 18. **GOVERNING LAW AND JURISDICTION**

18.1 This Agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales.

18.2 Each party irrevocably agrees, for the sole benefit of Millpledge that, subject as provided below, the courts of England and Wales shall have exclusive jurisdiction over any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with this Agreement or its subject matter or formation. Nothing in this clause shall limit the right of Millpledge to take proceedings against you in any other court of competent jurisdiction, nor shall the taking of proceedings in any one or more jurisdictions preclude the taking of proceedings in any other jurisdictions, whether concurrently or not, to the extent permitted by the law of such other jurisdiction.