

# MCCREADIE GROUP

## TERMS OF SERVICE

These Terms of Service (“**Terms**”) constitute a legal agreement between the person or organization agreeing to these Terms (“**Customer**” or “**Y/you**”) and Cordance Operations LLC, dba McCreadie Group (the “**Company**,” “**Us**” or “**W/we**”). By signing an Order, accepting these Terms, or using the Services, you represent that you have the authority to bind the Customer to the Order, these Terms, and any applicable schedules, exhibits, or appendices incorporated or referenced herein (collectively, the “**Agreement**”).

### 1. **DEFINITIONS**

- 1.1. “**Active Protocols**” shall mean the number of protocols entered into the Services for any purpose which have not been closed out.
- 1.2. “**Affiliate**” of a party means an entity which, directly or indirectly is controlled by, controls or is under common control with that party where “control” of the party or other entity is the possession of the power to direct or cause the direction of the management and policies of the party or other entity, whether by voting, contract or otherwise.
- 1.3. “**Agreement**” means these terms and conditions including all referenced schedules, exhibits, or appendices hereto, and any mutually executed agreements incorporated herein by reference. No provisions of either party’s pre-printed purchase orders, acknowledgements, or click-through terms may modify this Agreement, and such other or additional terms or conditions are void and of no effect.
- 1.4. “**Customer Content**” means content, data, and information, including text, graphics, videos, or other material, submitted, uploaded, imported, or otherwise provided to or through the Services by Customer or by a third party on behalf of or for the benefit of Customer, including Customer’s customers, prospective customers, and users of the Services.
- 1.5. “**Documentation**” means Company’s then-current generally available documentation, specifications, and user manuals for the Services which are available upon login to the Services, as well as any documentation included in or attached to this Agreement, or such other Services-related documents provided by Company to Customer.
- 1.6. “**License Limit**” shall mean the maximum number of Active Protocols specified in the Schedule 4.
- 1.7. “**User**” means an individual employee, consultant, contractor, student, or agent of Customer who has been authorized by Customer to use the Services on behalf of Customer and/or its Affiliates.

### 2. **ACCESS AND USE OF THE SERVICES.**

- 2.1. **Our Provision of the Services.** We will make our software-as-a-service offerings available to you pursuant to the terms of the Agreement, and the Documentation (the

“Services”). We will use commercially reasonable efforts to make the Services available 24x7. You acknowledge that your use of the Services requires third-party hardware, software, internet and/or telecommunications access (which may involve extra charges), and that your ability to access and use the Services may be affected by your choices and the performance of these products and services.

- 2.2. **Changes to Services.** We reserve the right to enhance, upgrade, improve, modify or discontinue features of our Services as we deem appropriate and in our discretion. We will not materially reduce the core functionality or discontinue any Services unless we provide you with prior written notice. We may offer additional functionality to our standard Services or premium feature improvements for an additional cost.
- 2.3. **Your Registration for the Services.** You may be required to provide information about yourself in order to register for and/or use certain Services. You agree that any such information shall be accurate. You may also be asked to choose a username and password. You are entirely responsible for maintaining the security of your username and password and agree not to disclose such to any third party.
- 2.4. **Your Use of the Services.** Subject to the License Limit, we grant you a limited right to use our Services and Documentation only for business and professional purposes in connection with the provision of health care services to Customer’s patients at the location(s) identified in Schedule 1. Your Affiliates, third party agents, contractors or service providers may use the Services or Documentation as Users under your account, provided that you shall take full responsibility for such third parties’ compliance with this Agreement.
- 2.5. **Limitations on Your Use.** By using our Services, you agree on behalf of yourself, your Affiliates and Users, not to (i) modify, prepare derivative works of, or reverse engineer, our Services; (ii) access or use the Services or Documentation for any competitive purpose; (iii) knowingly or negligently use our Services in a way that abuses or disrupts our networks, user accounts, or the Services; (iv) transmit through the Services any harassing, indecent, obscene, or unlawful material; (v) market, or resell the Services to any third party; (vi) use the Services in violation of applicable laws, or regulations; (vii) use the Services to send unauthorized advertising, or spam; (viii) harvest, collect, or gather user data without their consent; (ix) transmit through the Services any material that may infringe the intellectual property, privacy, or other rights of third parties; or (x) use the Services to commit fraud or impersonate any person or entity.
- 2.6. **Responsibility for Users.** You are responsible for the activities of all Users who access or use the Services through your account, and you agree to ensure that any such Users will comply with the terms of this Agreement. If You become aware of any violation of this Agreement in connection with use of the Services by any person, please contact us.
- 2.7. **Training.** Upon a mutually agreeable date and either on Customer’s premises or via web-based training, Company will provide (i) general end user training for authorized Users within thirty (30) days of the Effective Date, and (ii) one, three-hour training session for administrative-level use of the Services. Company will provide Customer with electronic copies of any relevant training materials and Customer, at its sole expense, will create sufficient copies for all trainees.

- 2.8. **Set-Up Preparation and Services.** Customer will prepare for set-up services by meeting the requirements specified in Schedule 2, following which Company will provide the set-up services specified in Schedule 3 at no additional cost to Customer.
- 2.9. **Support and Maintenance.** We will, at no additional charge, provide standard customer support for the Services as detailed in Schedule 5 hereto.
- 2.10. **Professional Services.** We will, upon execution of a mutually agreed Statement of Work (“SOW”) provide professional services as mutually agreed by the parties, including compliance audits or validations of the Services.

### 3. **ORDERS, FEES AND PAYMENT.**

- 3.1. **Orders.** You may order Software using our then-current ordering processes “**Order**”). All Orders are effective on the earlier of (i) the date you submit your Order, or (ii) the date on the signature block of the Order (“**Effective Date**”). Acceptance of your Order may be subject to our verification and credit approval process. Each Order shall be treated as a separate and independent Order.
- 3.2. **Fees and Payment.** You agree to pay all applicable, undisputed fees for the Services on the terms set forth in the Order, this Agreement, or your invoice. If we are required to participate in a third-party vendor registration system, any fees paid by us for that system shall be added to the Annual Fee. Unless otherwise specified in the Order or Invoice, you agree to pay all undisputed fees set forth in an invoice within 30 days of the date thereof. Except as set forth in Sections 4.3 and 8 below, any payments you make to us for access to the Services are final and non-refundable. You are responsible for all fees and charges imposed by third parties such as hardware, software, internet, voice and/or data transmission providers related to your access and use of the Services. You are responsible for providing accurate and current billing, contact and payment information to us. You agree that we may charge your payment card or bill you for all amounts due for your use of the Services, and we make take steps to update your payment card information (where permitted) to ensure payment can be processed. You agree that your credit card information and related personal data may be provided to third parties for payment processing and fraud prevention purposes. We may suspend or terminate your Services if at any time we determine that your payment information is inaccurate or not current, and you are responsible for fees and overdraft charges that we may incur when we charge your card for payment. We reserve the right to update the price for Services at any renewal date after your Initial Term in an amount not to exceed the greater of the increase in CPI over the prior term or 5 percent. We will give you notice of any price increase at least 30 days in advance of such increase.
- 3.3. **Taxes and Withholdings.** You are responsible for all applicable sales, services, value-added, goods and services, withholding, tariffs, or any other similar taxes or fees (collectively, “**Taxes and Fees**”) imposed by any government entity or collecting agency based on the Services, except those Taxes and Fees based on our net income, or Taxes and Fees for which you have provided an exemption certificate. In all cases, you will pay the amounts due under this Agreement to us in full without any right of set-off or deduction.
- 3.4. **Disputes; Delinquent Accounts.** You must notify us of any fee dispute within 15 days of the invoice date, and once resolved, you agree to pay those fees within 15 days. We may, on 10 days’ notice to you, suspend your Services if you do not pay undisputed fees by their due date, and you agree to reimburse us for all reasonable costs and

expenses, including overdraft charges, collection costs and attorneys' fees, incurred in collecting delinquent amounts. You further agree that we may collect interest at the lesser of 1.5% per month or the highest amount permitted by law on any amounts not paid when due.

#### 4. **TERM AND TERMINATION.**

- 4.1. **Term.** The initial term commitment for your purchase of Services will be as specified in the Order ("**Initial Term**") and begins on the Effective Date. If the Order is silent, the Initial Term shall be 12 months. After the Initial Term, the Services will automatically renew for additional 12-month periods ("**Renewal Terms**"), unless either party provides notice of non-renewal at least 30 days before the current term expires. Terminating specific Services does not affect the term of any other Services still in effect.
- 4.2. **Termination for Cause.** Either party may terminate the Agreement (i) if the other party breaches its material obligations and fails to cure within 30 days of receipt of written notice, or (ii) where permitted by applicable law, if the other party becomes insolvent or bankrupt, liquidated or is dissolved, or ceases substantially all of its business.
- 4.3. **Effect of Termination.** If the Agreement or any Services are terminated, you will immediately discontinue all use of the terminated Services, except that we will provide you with limited access to the Services for a period of at least 30 days solely to enable you to retrieve your Customer Content from the Services. Upon your request prior to the end of such 30-day period, we will retain your data for one year to support any future audits or data requests you may make. If you wish the data to be retained for longer than one year, the parties shall enter into SOW setting forth the term of retention and the fees to be charged. We have no obligation to maintain your Customer Content after the agreed upon retention period. Neither party will be liable for any damages resulting from termination of the Agreement, and termination will not affect any claim arising prior to the termination date. If we discontinue Services or materially reduce the core functionality in accordance with Section 2.2 above, and you elect to terminate the affected Services or this Agreement, we will provide you with a pro rata refund of any prepaid, unused fees. Notwithstanding anything to the contrary herein, the terms of this Agreement shall continue to apply to any Services that are still in effect.
- 4.4. **Survival.** The provisions of Sections 3 (Orders, Fees and Payment), 4.3 (Effect of Termination), 5 (Proprietary Rights), 9 (Indemnification), 10 (Limitation on Liability), 13.2 (Arbitration), and 13.5 (Notices) survive any termination of the Agreement.

#### 5. **PROPRIETARY RIGHTS.**

- 5.1. **Our Proprietary Rights and Marks.** You acknowledge that we or our licensors retain all proprietary right, title and interest in the Services, all Documentation our name, logo, or other marks (together, the "**Marks**"), and any related intellectual property rights, including, without limitation, all modifications, enhancements, derivative works, and upgrades thereto. Except for the express limited rights set forth in this Agreement, no right, title or interest in our Services, Documentation, or Marks is granted to you. You agree that you will not use or register any trademark, service mark, business name, domain name or social media account name or handle which incorporates in whole or in part our Marks or is similar to any of these.

- 5.2. **Your Customer Content.** You retain all rights to your Customer Content and are solely responsible for the Customer Content sent or transmitted by You or displayed or uploaded by You in using the Services and for compliance with all Laws pertaining to the Customer Content, including, but not limited to, Laws requiring You to obtain the consent of a third party to use the Customer Content and to provide appropriate notices of third-party rights. You hereby grant us a worldwide, royalty-free, non-exclusive license to use, modify, reproduce, and distribute your Customer Content in order to provide and operate the Services, provide any training or support related thereto and to exchange customary data with clinical trial sponsors and their representative limited to non-Protected Health Information data elements require as part of being a clinical study site. We will not view, access, or process any of your Customer Content, except: (x) as authorized or instructed by you or your users in this Agreement or in any other agreement between the parties, or (y) as required to comply with our policies, applicable law, or governmental request.
- 5.3. **Feedback.** You agree that We shall have a fully paid-up, royalty-free, worldwide, transferable, sub-licensable, assignable, irrevocable, and perpetual license to implement, use, modify, commercially exploit, incorporate into the Services or otherwise use any suggestions, enhancement requests, recommendations or other feedback we receive from you, your Affiliates and Users ("**Feedback**"). We also reserve the right to seek intellectual property protection for any features, functionality or components that may be based on or that were initiated by your Feedback.
- 5.4. **Aggregated Statistics.** Notwithstanding anything to the contrary in this Agreement, you acknowledge and agree that we may collect and compile data and information related to your use of the Services to be used by us in an aggregated and anonymized manner, including to compile statistical and performance information related to the provision and operation of the Services ("**Aggregated Statistics**"). As between us and you, all right, title, and interest in Aggregated Statistics, and all intellectual property rights therein, belong to and are retained solely by us. You agree that we may (i) make Aggregated Statistics publicly available in compliance with applicable law, and (ii) use Aggregated Statistics to the extent and in the manner permitted under applicable law, provided that such Aggregated Statistics do not identify you or your Customer Content.

## 6. **YOUR PRIVACY AND SECURITY.**

- 6.1. **Privacy Policy.** Your use and our provision of the Services is subject to our Privacy Policy at <https://www.mccreadiegroupp.com/privacy> which is incorporated by reference. By using the Services, you indicate that you have read, understand, and agree to the terms and conditions of our Privacy Policy, including its disclosures regarding collection, use, and disclosure of your information in accordance with our Privacy Policy.
- 6.2. **Security Safeguards.** Each party shall maintain appropriate administrative, physical, and technical safeguards for protection of the security, confidentiality and integrity of your Customer Content and any associated personal data that is collected and/or processed through the Services. On our part, those safeguards will include measures designed to prevent unauthorized access, use, modification, deletion, and disclosure of Customer Content. Customer (not us) bears sole responsibility for adequate security, protection, and backup of Customer Content when in Customer's or its representatives' or agents' possession or control.

- 6.3. **Sub-processors.** You acknowledge and agree that we may use Sub-processors to help provide the Service, who may access your Customer Content and any associated personal data, to provide, secure and improve the Services. Before sharing Customer Content with any of our Sub-processors, we will ensure that the third party maintains, at a minimum, commercially reasonable data practices for maintaining the confidentiality and security of your Customer Content and preventing unauthorized access. We shall be responsible for the acts and omissions of such Sub-processors to the same extent that We would be responsible if we were performing the Services.
- 6.4. **Business Associate Agreement.** To the extent that our provision of the Services requires Company to create, receive, maintain, or transmit Protected Health Information (PHI), as defined in the Health Insurance Portability and Accountability Act of 1996 (HIPAA), the parties agree that they shall enter into a mutually acceptable Business Associate Agreement (BAA). Upon execution by the parties, the BAA is hereby incorporated by reference into the terms of this Agreement.
- 6.5. **Data Processing Addendum.** To the extent that our provision of the Services involves the processing of Personal Data under applicable data protection law, the parties agree that you shall be deemed to be the Data Controller, and we shall be deemed to be the Data Processor, as those terms are understood under the applicable data protection law. We explain how we process Personal Data in our role as Data Processor in our Data Processing Addendum (“DPA”). Upon execution by you, the DPA is hereby incorporated by reference herein into the terms of this Agreement. For the purposes of this Agreement, the term “**Personal Data**” means any information relating to an identified or identifiable natural person where an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as name, an identification number, location data, an online identifier or to one or more factors specific to their physical, physiological, mental, economic, cultural or social identity of that natural person.
- 6.6. **State Privacy Laws.** To the extent that Customer Content contains “personal information” that is subject to the California Consumer Privacy Act of 2018, its implementing regulations, and any amendments thereto (collectively, the “CCPA”), or any other substantially similar state privacy laws, Company agrees that it shall comply with all applicable laws and process such personal information as a service provider (as defined under the CCPA) and shall not (a) retain, use or disclose personal information for any purpose other than the purposes set out in this Agreement and/or as permitted by the CCPA; or (b) “sell” (as defined and understood within the requirements of the CCPA) personal information.
7. **CONFIDENTIALITY.**
- 7.1. “**Confidential Information**” shall mean all information that is identified as confidential at the time of disclosure by the Disclosing Party or should be reasonably known by the Receiving Party to be confidential or proprietary due to the nature of the information disclosed and the circumstances surrounding the disclosure. Customer Content will be deemed Confidential Information of Customer without any marking or further designation. Company’s Services, Documentation and Marks, any related intellectual property rights, and the terms and conditions of this Agreement will be deemed Confidential Information of Company without any marking or further designation. Confidential Information shall not include information that the Receiving Party can demonstrate: (i) was rightfully in its possession or known to it prior to receipt of the Confidential Information; (ii) is or has become public knowledge through no fault of the

Receiving Party; (iii) is rightfully obtained by the Receiving Party from a third party without breach of any confidentiality obligation; or (iv) is independently developed by employees of the Receiving Party who had no access to such information.

- 7.2. Each party (as “**Receiving Party**”) will use the same degree of care that it uses to protect the confidentiality of its own confidential information of like kind (but not less than reasonable care) to (i) not use any Confidential Information of the other party (the “**Disclosing Party**”) for any purpose outside the scope of this Agreement, and (ii) except as otherwise authorized by the Disclosing Party in writing, limit access to Confidential Information of the Disclosing Party to those of its and its Affiliates’ employees and contractors who need that access for purposes consistent with this Agreement and who have signed confidentiality agreements with the Receiving Party containing protections not materially less protective of the Confidential Information than those herein. If Receiving Party is required by law or court order to disclose Confidential Information, then Receiving Party shall, to the extent legally permitted, provide Disclosing Party with advance written notification, and cooperate in any effort to obtain confidential treatment of the Confidential Information. The Receiving Party acknowledges that disclosure of Confidential Information would cause substantial harm for which damages alone would not be a sufficient remedy, and therefore that upon any such disclosure by the Receiving Party, the Disclosing Party will be entitled to seek appropriate equitable relief in addition to whatever other remedies it might have at law.

## 8. **WARRANTIES.**

- 8.1. WE PROVIDE OUR SERVICES USING A COMMERCIALY REASONABLE LEVEL OF CARE AND WARRANT THAT THE SERVICES WILL MATERIALLY CONFORM TO THE DOCUMENTATION UNDER NORMAL USE. WE DO NOT REPRESENT OR WARRANT THAT (i) THE USE OF OUR SERVICES WILL BE TIMELY, UNINTERRUPTED OR ERROR FREE, OR OPERATE IN COMBINATION WITH ANY SPECIFIC HARDWARE, SOFTWARE, SYSTEM OR DATA, OR (ii) OUR SERVICES WILL MEET YOUR SPECIFIC REQUIREMENTS. OUR ENTIRE LIABILITY AND YOUR EXCLUSIVE REMEDY UNDER THIS WARRANTY WILL BE, AT OUR SOLE OPTION AND SUBJECT TO APPLICABLE LAW, TO PROVIDE CONFORMING SERVICES, OR TO TERMINATE THE NON-CONFORMING SERVICES AND PROVIDE A PRO-RATED REFUND OF ANY PREPAID FEES FROM THE DATE YOU NOTIFY US OF THE NON-CONFORMANCE THROUGH THE END OF THE REMAINING TERM. TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, WE DISCLAIM ALL OTHER WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, INCLUDING ANY EXPRESS OR IMPLIED WARRANTIES OF MERCHANTABILITY, TITLE, AND FITNESS FOR A PARTICULAR PURPOSE.

## 9. **INDEMNIFICATION.**

- 9.1. **Our Indemnity.** We will indemnify and defend you against any third-party claim alleging that any of the Services infringes upon any patent or copyright, or violates a trade secret of any such third-party (an “**IP Claim**”), and we agree to pay reasonable attorney’s fees, court costs, damages finally awarded, or reasonable settlement costs with respect to any such claim. You will promptly notify us of any claim and cooperate with us in defending the claim. We will reimburse you for reasonable expenses incurred in providing any cooperation or assistance. We will have full control and authority over the defense and settlement of any claim, except that: (i) any settlement requiring you to admit liability requires prior written consent, not to be unreasonably withheld or delayed, and (ii) you may join in the defense with your own counsel at your own expense.

9.1.1. If (i) Company becomes aware of an actual or potential IP Claim, or (ii) Customer provides Company with notice of an actual or potential IP Claim, Company may (or in the case of an injunction against Customer, shall), at Company's sole option and determination: (a) procure for Customer the right to continue to use the Services; or (b) replace or modify the Services with equivalent or better functionality so that Client's use is no longer infringing; or (c) if (a) or (b) are not commercially reasonable, terminate provision of the Services and refund to Customer any pre-paid Service fees for any periods after the termination of the Service, less any outstanding moneys owed by Customer to Company.

9.1.2. The obligations in Sections 9.1 do not extend to (i) any IP Claim based upon infringement or alleged infringement of any patent, trademark, copyright or other intellectual property right by the combination of the Services with other products, software or services not provided by Company; (ii) any IP Claim related to any Customer Content, or (iii) any IP Claim related to any use or exercise of any other right in respect to the Service outside the scope of the rights granted in this Agreement.

9.2. **Your Indemnity.** Unless prohibited by applicable law, You will indemnify and defend us against any third-party claim (i) resulting from a breach of Sections 2.5 or 5.2, (ii) alleging that any of your Customer Content infringes upon any patent or copyright, or violates a trade secret of any party, or (iii) arising from or related to patient care, including, without limitation, any threatened or actual claim that alleges personal injury or medical malpractice, and you agree to pay reasonable attorney's fees, court costs, damages finally awarded, or reasonable settlement costs with respect to any such claim. We will promptly notify you of any claim and cooperate with you in defending the claim. You will reimburse us for reasonable expenses incurred in providing any cooperation or assistance. You will have full control and authority over the defense and settlement of any claim, except that: (i) any settlement requiring us to admit liability requires prior written consent, not to be unreasonably withheld or delayed, and (ii) we may join in the defense with our own counsel at our own expense.

## 10. **LIMITATION ON LIABILITY.**

10.1. **LIMITATION ON INDIRECT LIABILITY.** NEITHER PARTY WILL BE LIABLE TO THE OTHER PARTY OR TO ANY OTHER PERSON FOR ANY INDIRECT, SPECIAL, CONSEQUENTIAL OR INCIDENTAL LOSS, EXEMPLARY OR OTHER SUCH DAMAGES, INCLUDING, WITHOUT LIMITATION, DAMAGES ARISING OUT OF OR RELATING TO: (i) LOSS OF DATA, (ii) LOSS OF INCOME, (iii) LOSS OF OPPORTUNITY, OR (iv) LOST PROFITS, HOWEVER CAUSED AND BASED ON ANY THEORY OF LIABILITY, INCLUDING, BUT NOT LIMITED TO, BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), OR VIOLATION OF STATUTE, WHETHER OR NOT SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. SOME JURISDICTIONS DO NOT ALLOW LIMITATION OR EXCLUSION OF LIABILITY FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO SOME OF THE ABOVE LIMITATIONS MAY NOT APPLY.

10.2. **LIMITATION ON AMOUNT OF LIABILITY.** EXCEPT FOR A PARTY'S BREACH OF SECTIONS 2.5, 5.1, 5.2, 7 (EXCLUDING CLAIMS RELATED TO CUSTOMER CONTENT), 9 and 10.3, A PARTY'S INDEMNIFICATION OBLIGATION UNDER SECTION 9, OR A PARTY'S GROSS NEGLIGENCE, WILLFUL MIDCONDUCT OR



FRAUD, AND TO THE EXTENT PERMITTED BY APPLICABLE LAW, THE TOTAL CUMULATIVE LIABILITY OF EITHER PARTY AND THEIR RESPECTIVE LICENSORS AND SUPPLIERS ARISING OUT OF THIS AGREEMENT IS LIMITED TO THE SUM OF THE AMOUNTS PAID FOR THE APPLICABLE SERVICE DURING THE 12 MONTHS IMMEDIATELY PRECEDING THE INCIDENT GIVING RISE TO THE LIABILITY (“**GENERAL LIABILITY CAP**”). THE FOREGOING DOES NOT LIMIT YOUR OBLIGATIONS TO PAY ANY UNDISPUTED FEES AND OTHER AMOUNTS DUE UNDER THIS AGREEMENT.

10.3. **SUPERCAP FOR DATA PROTECTION CLAIMS.** IN THE CASE OF “DATA PROTECTION CLAIMS,” EACH PARTY’S AND ITS AFFILIATES’ TOTAL LIABILITY TO THE OTHER PARTY AND ITS AFFILIATES FOR ALL CLAIMS IN THE AGGREGATE (FOR DAMAGES OR LIABILITY OF ANY TYPE) SHALL NOT EXCEED TWO TIMES (2X) THE “GENERAL LIABILITY CAP”. FOR THE PURPOSES OF THIS AGREEMENT, “**DATA PROTECTION CLAIMS**” MEANS ANY CLAIMS ARISING FROM A PARTY’S BREACH OF SECTION 6 (YOUR PRIVACY AND SECURITY), SECTION 7 (CONFIDENTIALITY IN RELATION TO CUSTOMER CONTENT) BREACH OF ANY APPLICABLE BAA OR DPA, OR BREACH OF APPLICABLE DATA PROTECTION LAWS.

10.4. IN NO EVENT SHALL EITHER PARTY (OR ITS RESPECTIVE AFFILIATES) BE LIABLE FOR THE SAME EVENT UNDER BOTH THE GENERAL LIABILITY CAP AND THE DATA PROTECTION CLAIMS CAP.

11. **COMPLIANCE WITH LAWS.** In connection with the performance, access and use of the Services under the Agreement, each party agrees to comply with all applicable laws, rules and regulations including, but not limited to export, privacy, data protection and anti-bribery laws and regulations. Each party represents that it is not named on any U.S. government denied-party list. Further, Customer shall not permit its users to access or use any Service or Content Product in a U.S. embargoed country or in violation of any U.S. export law or regulation. If necessary and in accordance with applicable law, we will cooperate with local, state, federal and international government authorities with respect to the Services. If access to the Services or the Documentation are acquired by or on behalf of a unit or agency of the United States government, the government agrees that such Services or Documentation is “commercial computer software” or “commercial computer software documentation” and that, absent a written agreement to the contrary, the government’s rights with respect to such Services or Documentation are limited by the terms of this Agreement, pursuant to FAR § 12.212(a) and/or DFARS § 227.7202-1(a), as applicable. Notwithstanding any other provision in these Terms, we may immediately terminate the Agreement for noncompliance with applicable laws.

12. **SUSPENSION OF SERVICES.** We reserve the right to suspend the Services or restrict access or functionalities if (a) we reasonably believe that you, your Affiliates or Users have materially violated this Agreement, or (b) we reasonably determine that the security of our Services or infrastructure may be compromised due to hacking attempts, denial of service attacks, or other malicious activities. Unless legally prohibited, we will use commercially reasonable efforts to notify you when taking any of the foregoing actions. We shall not be liable to you, your Affiliates or Users or any other third party for any such suspension of Services or reduced functionality. Any suspected fraudulent, abusive, or illegal activity by

you, your Affiliates or Users may be referred to law enforcement authorities at our sole discretion.

13. **ADDITIONAL TERMS.**

13.1. **Dispute Resolution.** Each party agrees that before it seeks any form of legal relief (except for a provisional remedy as explicitly set forth below) it shall provide written notice to the other party of the specific issue(s) in dispute (and reference the relevant provisions of the contract between the parties which are allegedly being breached). Within thirty (30) days after such notice, knowledgeable executives of the parties shall hold at least one meeting (in person or by video- or tele-conference) for the purpose of attempting in good faith, to resolve the dispute. The parties agree to maintain the confidential nature of all disputes and disagreements between them, including, but not limited to, informal negotiations, mediation, or arbitration, except as may be necessary to prepare for or conduct these dispute resolution procedures or unless otherwise required by law or judicial decision. The dispute resolution procedures in this Section shall not apply to claims subject to indemnification under Section 9 (Indemnification) or prior to a party seeking a provisional remedy related to claims of misappropriation or ownership of intellectual property, trade secrets or Confidential Information.

13.2. **Arbitration.** If the parties do not reach an agreed upon solution within a period of thirty (30) days from the time of the commencement of the informal dispute resolution process described above, then either party may initiate binding arbitration by a single arbitrator before the American Arbitration Association using its Commercial Arbitration Rules as the sole means to resolve claims subject to the terms set forth below. YOU AGREE THAT ANY DISPUTE OR CLAIM RELATING TO THIS AGREEMENT WILL BE RESOLVED BY BINDING ARIBTRATION RATHER THAN IN COURT AND ATHAT YOU WILL ARBITRATE WITH US ONLY IN YOUR INDIVIDUAL OR CORPORATE CAPACITY, AND NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED CLASS. Any arbitration claim must be brought within one (1) year of the claim arising. The arbitrator shall have exclusive authority to resolve all disputes arising out of or relating to the interpretation, applicability, enforceability, or formation of this Agreement, including but not limited to any claim that all or any part of this Agreement is void or voidable, or whether a claim is subject to arbitration. The arbitrator shall be empowered to grant whatever relief would be available in a court under law or in equity. The arbitrator's award shall be written, and binding on the parties and may be entered as a judgment in any court of competent jurisdiction. You understand and agree that unless you can demonstrate that arbitration in Delaware would create an undue burden for you, any arbitration hearing will be held in Delaware. You understand and agree that by entering into this Agreement, each party is waiving the right to a jury trial or a trial before a judge in a public court. Other rights that you would have if you went to court, such as the right to appeal and to certain types of discovery, may be more limited or may also be waived. Notwithstanding the parties' decision to resolve all disputes through arbitration, either party may bring an action in state or federal court to protect its intellectual property rights (meaning patents, copyrights, moral rights, trademarks, and trade secrets, but not privacy or publicity rights) or Confidential Information. Furthermore, you have the right to opt out and not be bound by these arbitration provisions by sending written notice of your decision to opt out to the following address [address] within 30 days of the date of this Agreement.

- 13.3. **Governing Law and Jurisdiction.** These Terms will be governed by the laws of the State of Delaware. For any dispute not subject to arbitration, each party agrees to the personal and exclusive jurisdiction of and venue in the federal and state courts located in Delaware.
- 13.4. **Assignment.** Neither party may assign its rights or delegate its duties under the Agreement either in whole or in part without the other party's prior written consent, which shall not be unreasonably withheld, except that either party may assign the Agreement to an affiliated entity, or as part of a corporate reorganization, consolidation, merger, acquisition, or sale of all or substantially all of its business or assets to which this Agreement relates. Any attempted assignment without consent will be void. The Agreement will bind and inure to the benefit of each party's successors or assigns.
- 13.5. **Notices.** Notices must be sent by personal delivery, overnight courier, or registered or certified mail. We may also provide notice to the email last designated on your account, electronically via postings on our website, in-product notices, or via our self-service portal or administrative center. Unless specified elsewhere in this Agreement, notices should be sent to us at 16 W. Martin Street, Raleigh, NC 27601, Attn: Scott McCreadie, President, Cordance Operations LLC, McCreadie Group Division; e-mail: scott@mccreadiegrou.com, with a copy to the attention of the legal department at the same address; e-mail: legal@cordance.co, and we will send notices to the address last designated on your account. Notice is given (a) upon personal delivery; (b) for overnight courier, on the second business day after notice is sent, (c) for registered or certified mail, on the fifth business day after notice is sent, (d) for email, when the email is sent, or (e) if posted electronically, upon posting.
- 13.6. **Entire Agreement; Order of Precedence.** This Agreement, including any applicable schedules, exhibits, and appendices, and any mutually signed BAA, DPA, and/or an SOW set forth the entire agreement between you and us relating to the Services and/or Professional Services and supersedes all prior and contemporaneous oral and written agreements, except as otherwise permitted. If there is a conflict between any of the above referenced documents, the conflict will be resolved in that order.
- 13.7. **Updates to Terms.** We reserve the right to propose changes to this Agreement that are generally applicable to all customers at any time and will, if such changes are material, provide at least thirty (30) days' notice prior to any new terms taking effect. What constitutes a material change will be determined in our sole discretion. By continuing to access or use our Services after any revisions become effective, you agree to be bound by the revised terms of the Agreement. If you do not agree to the new terms, you are no longer authorized to use the Services. In the event of a material change of terms, you may terminate the Agreement by giving us written notice within thirty (30) days of our notice of the change of terms and we shall refund to you any pre-paid fees that are applicable to the period after such termination.
- 13.8. **General Terms.** If any term of this Agreement is not enforceable, this will not affect any other terms. Both parties are independent contractors and nothing in this Agreement creates a partnership, agency, fiduciary or employment relationship between the parties. No person or entity not a party to the Agreement will be a third-party beneficiary or have the right to modify the Agreement or to make commitments binding on us. Failure to enforce any right under the Agreement will not waive that

right. Unless otherwise specified, remedies are cumulative. The Agreement may be agreed to online or executed by electronic signature and in one or more counterparts. No party will be responsible for any delay or failure to perform under the Agreement due to force majeure events (e.g., natural disasters; terrorist activities, activities of third-party service providers, labor disputes; and acts of government) and acts beyond a party's reasonable control, but only for so long as those conditions persist.

Last updated November 23, 2022

**Schedule 1**

**Licensee Locations**

As set forth in Order.

## Schedule 2

### Customer Set-Up Requirements

Customer shall provide the following:

#### **General**

- 1) All necessary workstations with connections to the Internet for running the application in the affected work areas
- 2) Connectivity, power and installation on network for label printer(s) and print server(s)
- 3) Firewall configuration services to establish a VPN tunnel between Customer's network and the host servers as needed for printing and interfaces
- 4) IP addresses of label printer(s) for Company to setup on host server
- 5) Connection of barcode scanners to workstations using application (if used)
- 6) Help Desk resources for IT-related issues on printing and VPN connection

#### **Orders Interface(s) – if applicable**

- 1) Provide needed networking and orders system services to setup the interface(s) from the ordering system(s) to the Services

#### **Clinical Trial Management System (CTMS) Interface – if applicable**

- 1) Provide needed networking and CTMS services to setup the interface from the CTMS system to the Services

## Schedule 3

### Setup Services

“Set-up Services” shall mean:

#### **General**

- 1) Conduct a kickoff meeting between Company and Customer
- 2) Work with information technology services at Customer’s location to establish secure communications between Customer and host servers
- 3) Provide label design services of up to 10 hours
- 4) Provide billing extract design services of up to 10 hours
- 5) Test application for functional accuracy
- 6) Certify that application is ready for functional testing
- 7) Grant access to Customer to application

#### **Orders Interface(s) – if applicable**

- 1) Conduct an interface kickoff meeting between Company and Customer
- 2) Work with information technology services at Customer’s location to setup interface with EMR
- 3) Work with Customer EMR and Customer investigational drug service to:
  - a. Map Vestigo Software and EMR values
  - b. Assist Customer in identifying and resolving differences in workflow
  - c. Compare Vestigo Software and EMR tables and Sync as appropriate in test and production environments.
- 4) Test the interface for functional accuracy
- 5) Certify/Validate that application is ready for functional testing
- 6) Work with Customer to activate the interface in production environment

#### **Clinical Trial Management System (CTMS) Interface – if applicable**

- 1) Conduct an interface kickoff meeting between Company and Customer
- 2) Work with information technology services at Customer’s location to setup interface with CTMS
- 3) Work with Customer CTMS and Customer investigational drug service to:
  - a. Map Vestigo Software and CTMS values
  - b. Assist Customer in identifying and resolving differences in workflow
  - c. Compare Vestigo Software and CTMS tables and Sync as appropriate in test and production environments.
- 4) Test the interface for functional accuracy
- 5) Certify/Validate that application is ready for functional testing
- 6) Work with Customer to activate the interface in production environment

Company will complete set-up services within 30 days of the Effective Date provided that Licensee promptly performs its obligations under this Agreement, including the set-up requirements in Schedule 2

**Schedule 4**

**Purchased Products/Services and Fees**

As set forth in Order.



## Schedule 5

### Service Levels

Company, or its designated representatives, shall host the Services on servers outside of Customer location. Company shall be responsible for the acts of its designated representatives and any failure by its designated representatives shall be deemed a failure by Company. Company or its designated representatives will monitor servers 24 hours a day, 7 days a week to ensure maximum up-time, with worldwide unimpeded availability and access to the Services as contemplated by this Agreement, guaranteed at 99.9% of the time and immediate response and remedy to any downtime. Except for scheduled downtime as set forth below, failure of Company to meet the guaranteed uptime shall result in the following credits issued to Customer on the subsequent issued invoice (or as a payment if it occurs subsequent to the issuance of the last payment): for every 1/10 of a percent below the guaranteed uptime of 99.9% up to an uptime of 99%, measured on a monthly basis, Customer shall receive a credit of 1% of the total fees for such month (based on a pro rata basis for fees billed on a quarterly or an annual basis); for every 1/10 of a percent below 99% up to an uptime of 98%, measured on a monthly basis, Customer shall receive a credit of 2% of the total fees for such month (based on a pro rata basis for fees billed on a quarterly or an annual basis); and for every 1/10 of a percent below 98%, until such credit would equate to 50% of the total monthly fees, measured on a monthly basis, Customer shall receive a credit of 3% of the total fees for such month (based on a pro rata basis for fees billed on a quarterly or an annual basis), all on a cumulative basis. By way of illustrative example, in the event the uptime for a month is at 99.5%, Customer would receive a credit equal to 4% of that month's fees, at 98.5%, Customer would receive a credit equal to 19% of that month's fees, and at 97.5%, Customer would receive a credit equal to 44% of that month's fees. Such credit not to exceed 50% of the monthly fees.

Notwithstanding the foregoing, Customer will be required to access or use the Internet in connection with the use of the Services, and Customer understands and agrees that the Internet is an unregulated, public network over which Company exerts no control. Company makes no representations or warranties whatsoever with respect to any intrusions, disruption, loss of communication, loss or corruption of data, or other error or event caused or permitted by or introduced through Customer's use of the Internet. Customer is solely responsible for implementing adequate firewall, password, and other security measures to protect its systems, data and application from unwanted intrusions over the Internet. Company is solely responsible for implementing adequate firewall, password, and other security measures to protect its systems, data and application from unwanted intrusions over the Internet.

Downtime shall exclude regularly scheduled maintenance to be conducted after 10pm eastern time and before 7am eastern time or anytime during weekends. Company will provide Customer with advance notification of all regularly scheduled maintenance, allowing Customer to reschedule as needed.

Company guarantees to provide the following service levels:

Priority Level	Description	Initial response time	Status updates	Targeted resolution
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		<b>from notification</b>		
<b>Critical</b>	Software is unavailable or inaccessible or is an unscheduled system-wide downtime	15 minutes	Every 2 hours	2 hours
<b>Priority</b>	Essential component or feature of Software not working or impaired	2 hours	4 hours	8 hours
<b>General</b>	Less significant component or feature not working	24 hours	2 days	5 days
<b>Minor</b>	Question; minor problem with minimal impact on operations; enhancement request	72 hours	N/A	TBD by the parties

The response times in the above chart commence from the time Customer first notifies Company of the problem or failure, while the other times commence from the earlier of first notification by Customer of the problem or failure or Company otherwise becoming aware of the problem or failure. Failure to meet any of the above times three times or more in a sixty (60) day period shall result in a credit to Customer equal to 5% of that period's fees.