

Cloud Rx Platform Agreement

Last Modified: [12/01/2023]

This Cloud Rx Platform Agreement (“**Agreement**”) is a binding contract between Cloud Rx Pharmacy, LLC (“**we,**” “**our,**” or “**us**”) and the individual creating an account to use our Cloud Rx Services, if registering in an individual capacity, or the corporation, limited liability company, or other organization on whose behalf such individual is acting, if applicable (“**Customer,**” “**you,**” or “**your**”). This Agreement governs your access to and use of the Cloud Rx Services.

THIS AGREEMENT TAKES EFFECT WHEN YOU CLICK THE “I ACCEPT” BUTTON WHEN CREATING YOUR ACCOUNT (“**Effective Date**”). BY CLICKING ON THE “I ACCEPT” BUTTON OR BY ACCESSING OR USING THE CLOUD RX SERVICES YOU (A) ACKNOWLEDGE THAT YOU HAVE READ AND UNDERSTAND THIS AGREEMENT; (B) REPRESENT AND WARRANT THAT YOU HAVE THE RIGHT, POWER, AND AUTHORITY TO ENTER INTO THIS AGREEMENT AND, IF ENTERING INTO THIS AGREEMENT FOR AN ORGANIZATION, THAT YOU HAVE THE LEGAL AUTHORITY TO BIND THAT ORGANIZATION; AND (C) ACCEPT THIS AGREEMENT AND AGREE THAT YOU ARE LEGALLY BOUND BY ITS TERMS.

IF YOU DO NOT AGREE TO THESE TERMS, DO NOT CLICK THE “I ACCEPT” BUTTON. IF YOU DO NOT ACCEPT THESE TERMS, YOU MAY NOT ACCESS OR USE THE CLOUD RX SERVICES.

1. **Definitions.**

“**Authorized User**” means Customer and Customer’s employees, contractors, and agents who are authorized by Customer to access and use the Cloud Rx Services under the rights granted to Customer pursuant to this Agreement. Each individual who is an Authorized User will be provided with unique login credentials, and shall maintain the confidence of such login credentials. Each Authorized User shall ensure that its employees and contractors that are issues login credentials maintain the confidence of such login credentials and not share or disclose such login credentials to any other individual or entity except with the express direction of Cloud Rx.

“**Cloud Rx Services**” means the services that are subject to this Agreement and provided to you by us through the Website. The Cloud Rx Services may include patient communication tools, treatment calendars, and other services, all as described in more detail on our Website, and as they may be modified by us, in our sole discretion. The scope of the Cloud Rx Services available to you may be limited by the nature of your organization, whether you have paid for applicable Cloud Rx Services, and other factors.

“**Customer Data**” means, other than Aggregated Statistics, information, data, and other content, in any form or medium, that is submitted, posted, or otherwise transmitted by or on behalf of Customer or any Authorized User through the Cloud Rx Services.

“Documentation” means the end user documentation that is available on our Website relating to the Cloud Rx Services or otherwise made available by Cloud Rx and designated as Documentation as defined in this Agreement.

“Our IP” means the Cloud Rx Services, the Documentation, and all intellectual property provided to Customer or any other Authorized User in connection with the foregoing. For the avoidance of doubt, Our IP includes Aggregated Statistics and any information, data, artwork, design or other content derived from our monitoring of Customer’s access to or use of the Cloud Rx Services, but does not include Customer Data.

“Third-Party Products” means any products, content, services, information, websites, or other materials that are owned by third parties and are incorporated into or accessible through the Cloud Rx Services.

“Website” means the website that we make available for you to access the Cloud Rx Services, currently located at cloudrx.com.

2. **Access and Use.**

(a) **Provision of Access.** Provided we issue access credentials to you, and subject to and conditioned on your compliance with the terms and conditions of this Agreement, we hereby grant you a revocable, non-exclusive, non-transferable, non-sublicensable, limited right to access and use the Cloud Rx Services during the term solely for your internal business operations by Authorized Users in accordance with the terms and conditions herein.

(b) **Documentation License.** Subject to the terms and conditions contained in this Agreement, we hereby grant you a non-exclusive, non-sublicensable, non-transferable license for Authorized Users to use the Documentation during the term solely for your internal business purposes in connection with use of the Cloud Rx Services.

(c) **Use Restrictions.** You shall not, and shall not permit any Authorized Users to, use the Cloud Rx Services or Documentation for any purposes beyond the scope of the access granted in this Agreement. You shall not at any time, directly or indirectly, and shall not permit any Authorized Users to: (i) copy, modify, or create derivative works of the Cloud Rx Services or Documentation, in whole or in part; (ii) rent, lease, lend, sell, license, sublicense, assign, distribute, publish, transfer, or otherwise make available the Cloud Rx Services or Documentation except as expressly permitted under this Agreement; (iii) reverse engineer, disassemble, decompile, decode, adapt, or otherwise attempt to derive or gain access to any software component of the Cloud Rx Services, in whole or in part; (iv) remove any proprietary notices from the Cloud Rx Services or Documentation; or (v) use the Cloud Rx Services or Documentation in any manner or for any purpose that infringes, misappropriates, or otherwise violates any intellectual property right or other right of any person, or that violates any applicable law, regulation, or rule.

(d) **Aggregated Statistics.** Notwithstanding anything to the contrary in this Agreement, we may monitor Customer's use of the Cloud Rx Services and collect and compile data and information related to Customer's use of the Cloud Rx 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 Cloud Rx Services ("**Aggregated Statistics**"). As between you and us, all right, title, and interest in Aggregated Statistics, and all intellectual property rights therein, belong to and are retained solely by us. You acknowledge that we may compile Aggregated Statistics based on Customer Data input into the Cloud Rx Services. 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.

(e) **Reservation of Rights.** We reserve all rights not expressly granted to Customer in this Agreement. Except for the limited rights and licenses expressly granted under this Agreement, nothing in this Agreement grants, by implication, waiver, estoppel, or otherwise, to Customer or any third party any intellectual property rights or other right, title, or interest in or to Our IP.

(f) **Suspension.** We provide the Cloud Rx Services as a convenience to Customer, and may suspend access to the Cloud Rx Services at any time. Without limiting the generality of the foregoing, we may suspend Customer's and any other Authorized User's access to any portion of or all of the Cloud Rx Services if: (i) we determine that (A) there is a threat or attack on any of Our IP; (B) Customer's or any other Authorized User's use of Our IP disrupts or poses a security risk to Our IP or to any other customer or vendor of ours; (C) Customer or any other Authorized User is using Our IP for fraudulent or illegal activities; (D) subject to applicable law, Customer has ceased to continue its business in the ordinary course, made an assignment for the benefit of creditors or similar disposition of its assets, or become the subject of any bankruptcy, reorganization, liquidation, dissolution, or similar proceeding; or (E) our provision of the Cloud Rx Services to Customer or any other Authorized User is prohibited by applicable law; (ii) any vendor of ours has suspended or terminated our access to or use of any third-party services or products required to enable Customer to access the Cloud Rx Services; or (iii) in accordance with **Error! Bookmark not defined.****Error! Reference source not found.** (any such suspension described in subclause (i), (ii), or (iii), a "**Service Suspension**"). We shall use commercially reasonable efforts to provide written notice of any Service Suspension to Customer and to provide updates regarding resumption of access to the Cloud Rx Services following any Service Suspension. We shall use commercially reasonable efforts to resume providing access to the Cloud Rx Services as soon as reasonably possible after the event giving rise to the Cloud Rx Services Suspension is cured. We will have no liability for any damage, liabilities, losses (including any loss of or profits), or any other consequences that Customer or any other Authorized User may incur as a result of a Service Suspension.

3. **Customer Responsibilities.**

(a) **Acceptable Use Policy.** The Cloud Rx Services may not be used for unlawful, fraudulent, offensive, or obscene activity. Certain Cloud Rx Services may have additional acceptable use

policies, as may be amended from time to time (“**AUPs**”), which are located on our Website. If applicable to the Cloud Rx Services you are using, the AUPs contain additional requirements that you agree to comply with regarding your use of the Cloud Rx Services. You will comply with all terms and conditions of this Agreement, all applicable laws, rules, and regulations, and all guidelines, standards, and requirements that may be posted on the Website from time to time, including the AUP.

(b) **Account Use.** You are responsible and liable for all uses of the Cloud Rx Services and Documentation resulting from access provided by you, directly or indirectly, whether such access or use is permitted by or in violation of this Agreement. Without limiting the generality of the foregoing, you are responsible for all acts and omissions of Authorized Users, and any act or omission by an Authorized User that would constitute a breach of this Agreement if taken by you will be deemed a breach of this Agreement by you. You shall make all Authorized Users aware of the terms and conditions of this Agreement as applicable to their use of the Cloud Rx Services and shall ensure that the Authorized Users comply with such provisions.

(c) **Customer Data.** You hereby grant to us a non-exclusive, royalty-free, worldwide license to reproduce, distribute, and otherwise use and display the Customer Data and perform all acts with respect to the Customer Data as may be necessary for us to provide the Cloud Rx Services to you, and a non-exclusive, perpetual, irrevocable, royalty-free, worldwide license to reproduce, distribute, modify, and otherwise use and display Customer Data incorporated within the Aggregated Statistics. You represent and warrant that the Customer Data, any Authorized User’s use of Customer Data, and our processing of the Customer Data as permitted by the Agreement will not violate any applicable law or any policy or terms referenced in or incorporated into this Agreement. You are solely responsible for the development, content, operation, maintenance, and use of Customer Data.

(d) **Passwords and Access Credentials.** You are responsible for keeping your passwords and access credentials associated with the Cloud Rx Services confidential. You will not sell or transfer them to any other person or entity. You will promptly notify us about any unauthorized access to your passwords or access credentials. We reserve the right to modify the requirements for your access credentials and any time, and may require additional proof of identity.

(e) **Third-Party Products.** The Services may permit access to Third-Party Products. Such Third-Party Products may be subject to their own terms and conditions presented to you for acceptance within the Cloud Rx Services by website link or otherwise. If you do not agree to abide by the applicable terms for any such Third-Party Products, then you may not install, access, or use such Third-Party Products.

4. **Confidential Information.** From time to time during the Term, we may disclose or make available to you information about our business affairs, products, confidential intellectual property, trade secrets, third-party confidential information, and other sensitive or proprietary information, whether or not marked, designated, or otherwise identified as “confidential” at the time of disclosure, including the Cloud Rx Services and Documentation (collectively,

“Confidential Information”). Confidential Information does not include information that, at the time of disclosure is: (a) in the public domain, other than as a result of a breach of this Agreement; (b) known to you without obligation of confidentiality; or (c) independently developed by you without reference to our Confidential Information. You shall not disclose our Confidential Information to any person or entity, except to your Authorized Users who have a need to know the Confidential Information to exercise your rights or perform your obligations hereunder, and who are required to protect the Confidential Information in a manner no less stringent than required under this Agreement. Notwithstanding the foregoing, you may disclose Confidential Information to the limited extent required (i) to comply with the order of a court or other governmental body, or as otherwise necessary to comply with applicable law, provided that you shall first have given written notice to us and made a reasonable effort to obtain a protective order; or (ii) to establish your rights under this Agreement, including to make required court filings.

5. **Privacy Policy.** Our privacy policy (**“Privacy Policy”**) is available at [cloudrx.com], or such updated part of the Website where it may be placed in the future. The Privacy Policy is subject to change as described therein. By accessing, using, and providing information to or through the Cloud Rx Services, you acknowledge that you have reviewed and accepted our Privacy Policy, and you consent to all actions taken by us with respect to your information in compliance with the then-current version of our Privacy Policy.

6. **Intellectual Property Ownership; Feedback.** As between you and us, (a) we own all right, title, and interest, including all intellectual property rights, in and to the Cloud Rx Services, inclusive of Our IP. If you or any of your employees, contractors, or agents sends or transmits any communications or materials to us by mail, email, telephone, or otherwise, suggesting or recommending changes to the Cloud Rx Services, including without limitation, new features or functionality relating thereto, or any comments, questions, suggestions, or the like (**“Feedback”**), we are free to use such Feedback irrespective of any other obligation or limitation between you and us governing such Feedback. All Feedback is and will be treated as non-confidential by us. You hereby assign to us on your behalf, and shall cause your employees, contractors, and agents to assign, all right, title, and interest in, and we are free to use, without any attribution or compensation to you or any third party, any ideas, know-how, concepts, techniques, or other intellectual property rights contained in the Feedback, for any purpose whatsoever. We are not required to use any Feedback.

7. **Warranty and Disclaimers.**

(a) You represent and warrant that (i) you have the right to grant the license to the Customer Data as set forth in Section 3(c); (ii) that the Customer Data and your use of the Cloud Rx Services are in compliance with the Agreement; and (iii) you will not include any protected health information in the Customer Data unless you have executed a business associate agreement with us, if required to do so by the Health Insurance Portability and Accountability Act of 1996 and the regulations promulgated thereunder, as amended (**“HIPAA”**).

(b) THE CLOUD RX SERVICES ARE PROVIDED "AS IS" AND WE SPECIFICALLY DISCLAIM ALL WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE, INCLUDING ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NON-INFRINGEMENT, AND ALL WARRANTIES ARISING FROM COURSE OF DEALING, USAGE, OR TRADE PRACTICE. WE MAKE NO WARRANTY OF ANY KIND THAT THE CLOUD RX SERVICES, OR ANY PRODUCTS OR RESULTS OF THE USE THEREOF, WILL MEET YOUR OR ANY OTHER PERSON'S OR ENTITY'S REQUIREMENTS, OPERATE WITHOUT INTERRUPTION, ACHIEVE ANY INTENDED RESULT, BE COMPATIBLE OR WORK WITH ANY OF YOUR OR ANY THIRD PARTY'S SOFTWARE, SYSTEM, OR OTHER SERVICES, OR BE SECURE, ACCURATE, COMPLETE, FREE OF HARMFUL CODE, OR ERROR-FREE, OR THAT ANY ERRORS OR DEFECTS CAN OR WILL BE CORRECTED.

(c) You acknowledge and agree that we are not engaged in the practice of medicine, and that the Cloud Rx Services are merely tools to assist competent medical professionals in the provision of their services. You are solely responsible for the correct utilization of the Cloud Rx Services and any decisions made in relation thereto are exclusively the responsibility of Customer and its Authorized Users. The parties agree that we do not provide medical services and that your use of the Cloud Rx Services does not affect your obligations or the obligations of Authorized Users to exercise sound independent judgment in rendering health care or other services to any individuals. We shall have no responsibility for decisions made or actions taken or not taken in rendering such services. Customer acknowledges and agrees that Customer and the Authorized Users shall (i) not rely upon the Cloud Rx Services (including, but not limited to, output in the form of data) if they know or should know that the Cloud Rx Services are operating in a manner that could have a material negative impact on patient care, and (ii) remain solely responsible for the use of information obtained from the Cloud Rx Services.

8. **Limitations of Liability.** IN NO EVENT WILL WE BE LIABLE UNDER OR IN CONNECTION WITH THIS AGREEMENT UNDER ANY LEGAL OR EQUITABLE THEORY, INCLUDING BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, OR OTHERWISE, FOR ANY: (a) CONSEQUENTIAL, INCIDENTAL, INDIRECT, EXEMPLARY, SPECIAL, ENHANCED, OR PUNITIVE DAMAGES; (b) INCREASED COSTS, DIMINUTION IN VALUE OR LOST BUSINESS, PRODUCTION, REVENUES, OR PROFITS; (c) LOSS OF GOODWILL OR REPUTATION; (d) USE, INABILITY TO USE, LOSS, INTERRUPTION, DELAY OR RECOVERY OF ANY DATA, OR BREACH OF DATA OR SYSTEM SECURITY; OR (e) COST OF REPLACEMENT GOODS OR SERVICES, IN EACH CASE REGARDLESS OF WHETHER WE WERE ADVISED OF THE POSSIBILITY OF SUCH LOSSES OR DAMAGES OR SUCH LOSSES OR DAMAGES WERE OTHERWISE FORESEEABLE. IN NO EVENT WILL OUR AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT UNDER ANY LEGAL OR EQUITABLE THEORY, INCLUDING BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, OR OTHERWISE EXCEED THE TOTAL AMOUNTS PAID TO US UNDER THIS AGREEMENT IN THE 12-MONTH PERIOD PRECEDING THE EVENT GIVING RISE TO THE CLAIM OR \$1,000, WHICHEVER IS GREATER.

9. **Term and Termination.**

(a) **Term.** The term of this Agreement begins on the Effective Date and continues until terminated.

(b) **Termination.** In addition to any other express termination right set forth in this Agreement:

(i) Either party may terminate this Agreement for any reason upon 30 days' written notice.

(ii) Either party may terminate this Agreement, effective on written notice to the other party, if the other party breaches this Agreement, and such breach: (A) is incapable of cure; or (B) being capable of cure, remains uncured ten days after the non-breaching party provides the breaching party with written notice of such breach; or

(iii) Either party may terminate this Agreement, effective immediately upon written notice to the other party, if the other party: (A) becomes insolvent or is generally unable to pay, or fails to pay, its debts as they become due; (B) files or has filed against it, a petition for voluntary or involuntary bankruptcy or otherwise becomes subject, voluntarily or involuntarily, to any proceeding under any domestic or foreign bankruptcy or insolvency law; (C) makes or seeks to make a general assignment for the benefit of its creditors; or (D) applies for or has appointed a receiver, trustee, custodian, or similar agent appointed by order of any court of competent jurisdiction to take charge of or sell any material portion of its property or business.

(c) **Effect of Termination.** Upon termination of this Agreement, Customer shall immediately discontinue use of Our IP and the Cloud Rx Services. No expiration or termination of this Agreement will affect Customer's obligation protect our Confidential Information, inclusive of Our IP and to pay all charges that may have become due before such expiration or termination, or entitle Customer to any refund. We may retain Customer Data after termination until is destroyed in the ordinary course of our business.

(d) **Survival.** This Section 12(d), Sections __[Update]__, and any right, obligation, or required performance of the parties in this Agreement which, by its express terms or nature and context is intended to survive termination of this Agreement, will survive any such termination.

10. **Modifications.** You acknowledge and agree that we have the right, in our sole discretion, to modify this Agreement from time to time, and that modified terms become effective on posting. You will be notified of modifications through notifications on the Website or direct email communication from us. You are responsible for reviewing and becoming familiar with any such modifications. Your continued use of the Cloud Rx Services after the effective date of the modifications will be deemed acceptance of the modified terms.

11. **US Government Rights.** Each of the software components that constitute the Cloud Rx Services and the Documentation is a "commercial item" as that term is defined at 48 C.F.R. § 2.101, consisting of "commercial computer software" and "commercial computer software documentation" as such terms are used in 48 C.F.R. § 12.212. Accordingly, if you are an agency

of the US Government or any contractor therefor, you receive only those rights with respect to the Cloud Rx Services and Documentation as are granted to all other end users, in accordance with (a) 48 C.F.R. § 227.7201 through 48 C.F.R. § 227.7204, with respect to the Department of Defense and their contractors, or (b) 48 C.F.R. § 12.212, with respect to all other US Government customers and their contractors.

12. **Governing Law and Jurisdiction.** This Agreement is governed by and construed in accordance with the internal laws of the State of Texas without giving effect to any choice or conflict of law provision or rule that would require or permit the application of the laws of any other jurisdiction. Except as otherwise set forth herein, any legal suit, action, or proceeding arising out of or related to this Agreement will be instituted and maintained exclusively in the federal or state courts located in Dallas County, Texas, and each party irrevocably submits to the exclusive jurisdiction of such courts in any such suit, action, or proceeding. You agree to notify us in writing at least ten business days before filing any legal suit, action, or proceeding arising out of or related to this Agreement. You further agree to submit any dispute to binding arbitration at an agreed-upon site in Dallas County, Texas, under the then-prevailing rules of the American Arbitration Association, if directed to do so by us. ANY CAUSE OF ACTION OR CLAIM YOU MAY HAVE ARISING OUT OF OR RELATING TO THIS AGREEMENT MUST BE COMMENCED WITHIN ONE YEAR AFTER THE CAUSE OF ACTION ACCRUES OTHERWISE SUCH CAUSE OF ACTION OR CLAIM IS PERMANENTLY BARRED.

13. **Miscellaneous.** This Agreement constitutes the entire agreement and understanding between the parties hereto with respect to the subject matter hereof and supersedes all prior and contemporaneous understandings, agreements, representations, and warranties, both written and oral, with respect to such subject matter. Any notices to us must be sent to our corporate headquarters address available at the Website and must be delivered either in person, by certified or registered mail, return receipt requested and postage prepaid, or by recognized overnight courier service, and are deemed given upon receipt by us. Notwithstanding the foregoing, you hereby consent to receiving electronic communications from us. These electronic communications may include notices about applicable fees and charges, transactional information, and other information concerning or related to the Cloud Rx Services. You agree that any notices, agreements, disclosures, or other communications that we send to you electronically will satisfy any legal communication requirements, including that such communications be in writing. We will not be responsible for any losses resulting from causes beyond our reasonable control. The invalidity, illegality, or unenforceability of any provision herein does not affect any other provision herein or the validity, legality, or enforceability of such provision in any other jurisdiction. Any failure to act by us with respect to a breach of this Agreement by you or others does not constitute a waiver and will not limit our rights with respect to such breach or any subsequent breaches. This Agreement is personal to you and may not be assigned or transferred for any reason whatsoever without our prior written consent and any action or conduct in violation of the foregoing will be void and without effect. We expressly reserve the right to assign this Agreement and to delegate any of its obligations hereunder.