



PHARMAPOD'S TERMS OF SERVICE

Pharmapod Ltd. ("**Pharmapod**") owns certain Software (as defined herein) that it has developed and makes commercially available to its customers for use as a cloud based, hosted service offering (the "**Service**", as more fully defined below).

The following terms and conditions ("**Terms of Service**") are the terms and conditions for the use of the Service.

PLEASE READ THESE TERMS OF SERVICE CAREFULLY BEFORE ACCESS OR USING THE SERVICE.

These Terms of Service constitute a legally binding agreement between Customer and Pharmapod regarding Customer's (and its Authorised Users') access to and use of the Service. By accepting these Terms of Service, either by: A) accepting these Terms of Service online, B) signing the Order Form (as defined below) which references these Terms of Service, or C) using, or accessing the Service after being made aware of these Terms of Service, the Customer acknowledges that it has read and understood all of the provisions, and has the authority to agree to, and is confirming that it is agreeing to, comply with and be bound by, all of the terms and conditions contained herein, together with any Order Form. Customer should also read the [Privacy Policy](#), which is incorporated by reference into these Terms of Service. If Customer does not agree to these Terms of Service or any modified version of these Terms of Service, Customer's sole recourse is to terminate Customer's use of the Service.

1. INTERPRETATION

1.1 The definitions and rules of interpretation in this clause apply in this Agreement.

Affiliate: means an entity which controls, is controlled by or is under common control with a party hereto, where "control" means the power to control the composition of the board of directors of the relevant party (whether by contract, corporate law or other means), or the possession of more than half of the voting equity share capital of the relevant party, or the ability to consolidate such company's financial statements with those of such party in accordance with generally accepted accounting principles.

Aggregated Data: Customer Data that has been anonymized and aggregated after input to Pharmapod by Authorised Users as part of the Service.

Agreement: means these Terms of Service and the Order Form. In the event of conflict between these Terms of Service and the Order Form, these Terms of Service shall prevail.

Authorised Users: those employees, agents and independent contractors of the Customer

who are located either at the Customer's site or a Pharmacy Store site (for which the Customer has purchased a unique Pharmacy Subscription), and who are authorised by the Customer to use the Service.

Confidential Information: means all documentation, technical information, software, business information, feedback, pricing of the Service, trade secrets or know how or other materials of a confidential nature or that are disclosed in confidence by either party to the other during the term of this contract.

Customer: means the entity subscribing to the Service, as appears on the Order Form.

Customer Data: means the data submitted by or for Customer and Authorised Users to the Service and data collected by Pharmapod from or for Customer and Authorised Users using the Service, including, but not limited to, Patient Data.

Data Protection Legislation: to the extent applicable to the provision of any Service under this Agreement, all privacy, security, and data protection laws, rules, and regulations of any applicable jurisdiction including any jurisdiction in which the Service is being provided or the Personal Data is being processed and any jurisdiction from which Pharmapod provides any of the Service.

Documentation: shall mean the documents made available to Customer including without limitation by Pharmapod online via www.Pharmapodhq.com or such other web address notified by Pharmapod.

Due Date: has the meaning given to it at Clause 5.3.

Effective Date: means the date appearing on the Order Form.

Force Majeure Event: means without limitation events which are unpredictable, unforeseeable and beyond the parties' reasonable control, such as any extremely severe weather, flood, landslide, earthquake, storm, lightning, fire, subsidence, epidemic, sabotage, acts of terrorism, outbreak of military hostilities (whether or not war is declared), riot, explosions, strikes or other labour unrest, civil disturbance, sabotage, expropriation by governmental authorities or other act or any event that is outside the reasonable control of the concerned party.

Intellectual Property: means any and all registered and unregistered rights granted, applied for, or otherwise now or hereafter in existence under or related to any patent, copyright, trade-mark, trade secret, database protection, or other intellectual property rights laws, and all similar or equivalent rights or forms of protection, in any part of the world.

Order Form: means (i) an electronic form provided by Pharmapod on its website for ordering and purchasing Pharmacy Subscriptions from Pharmapod, or (ii) a written document executed by Pharmapod and Customer in respect to Customer's purchases of Pharmacy Subscriptions from Pharmapod.

Patient: a customer of a Pharmacy Store or healthcare clinic.

Patient Data: means any data of a Patient submitted by Customer or its Authorized Users to the Service and any data of a Patient collected by Pharmapod from or for Customer or its Authorized Users pursuant to or in connection with the Services, including Personal Data and personal health information (as defined by Data Protection Legislation).

Personal Data: any and all data relating to an identified or identifiable natural person in respect of which Customer is a data controller / custodian under applicable Data Protection Legislation and which may be processed by Pharmapod in connection with the Service.

Pharmacy Store: a pharmacy store or healthcare clinic which the Customer owns and for which the Customer has purchased a unique Pharmacy Subscription.

Pharmacy Subscription: a subscription to the Service purchased by the Customer for each individual Pharmacy Store. Each Pharmacy Store with a paid up Pharmacy Subscription is entitled (through Authorised Users) to access and use the Service and the Documentation in accordance with this Agreement.

Service: means the cloud-based hosted version of the Software for which Customer is granted rights of access and use in accordance with this Agreement, as described in an Order Form, which resides on a server operated by or on behalf of Pharmapod and which will be remotely accessible by Customer and its Authorised Users over the internet via www.pharpodhq.com or any other website identified by Pharmapod, including any ancillary services available in connection therewith, as such Service may be updated from time to time by Pharmapod in its sole discretion.

Software: means Pharmapod's proprietary *Pharmapod Platform* software program, as further outlined in the Documentation, and other related software specified in an Order Form, which is made available by Pharmapod as a Service for use by Customers in accordance with the terms hereof.

Subscription Fee: means the fee(s) payable by Customer for a Pharmacy Subscription, and any other applicable fees, as set out in an Order Form.

Subscription Term: means the period of time that Customer is authorised by Pharmapod to access and use the Service and Documentation.

Virus: any thing or device (including any software, code, file or programme) which may: prevent, impair or otherwise adversely affect the operation of any computer software, hardware or network, any telecommunications service, equipment or network or any other service or device; prevent, impair or otherwise adversely affect access to or the operation of any programme or data, including the reliability of any programme or data (whether by re-arranging, altering or erasing the programme or data in whole or part or otherwise); or adversely affect the user experience, including worms, trojan horses, viruses and other similar things or devices.

- 1.2 Clause, schedule and paragraph headings shall not affect the interpretation of this Agreement. A person includes an individual, corporate or unincorporated body (whether or not having separate legal personality) and that person's legal and personal representatives, successors or permitted assigns. A reference to a company shall include any company, corporation or other body corporate, wherever and however incorporated or established. Words in the singular shall include the plural and vice versa. Reference to a statute or statutory provision is a reference to it as it is in force for the time being, taking account of any amendment, extension, or re-enactment and includes any subordinate legislation for the time being in force made under it. A reference to writing or written includes faxes and e-mail.

2. The Service

- 2.1 Subject to the terms and conditions of this Agreement (including the applicable Order Form) and

payment of the applicable Subscription Fees, Pharmapod hereby grants to Customer a non-exclusive, non-transferable and non-sublicensable right to (a) access and use, and to permit Authorised Users to access and use, the Service, solely during the Subscription Term and solely for the Customer's internal business operations; and (b) access and use, and to permit Authorised Users to access and use, the Documentation as reasonably necessary to support the Customer's permitted use of the Service during the Subscription Term.

- 2.2 Pharmapod reserves the right to introduce new or enhanced features and functionalities to the Service. Should any enhanced feature and/or functionality be incompatible with features in use in the previously released version of the Software, then Pharmapod shall provide at least sixty (60) days written notice to Customer before it introduces any such feature or functionality.

- 2.3 Pharmapod's standard support for the Service described in Order Form will be delivered by email and responded to during normal business hours. Normal business hours shall be 9am-5pm EST.

3. CUSTOMER'S OBLIGATIONS

- 3.1 Customer shall (i) provide Pharmapod with all necessary timely co-operation and access in relation to this Agreement including relevant security access information and configuration service. In the event of any delays attributable to the Customer (and/or any Pharmacy Store), Pharmapod may adjust any agreed timetable or delivery schedule as reasonably necessary; (ii) comply with all applicable laws and regulations with respect to its activities under this Agreement including Data Protection Legislation; (iii) ensure that Service is used in accordance with the terms and conditions of this Agreement and shall be responsible for any breach by Customer and/or Authorised Users and hold Pharmapod harmless for its acts or omissions as well as those of Authorised Users and its contractors and agents; (iv) obtain and shall maintain all necessary licences, consents, and permissions necessary for Pharmapod, its contractors and agents to perform their obligations under this Agreement; (v) ensure that its network and systems comply with specifications provided by Pharmapod and will be solely responsible for procuring and maintaining its network connections and telecommunications links from its systems to Pharmapod's data centres and systems, and all problems, conditions, delays, delivery failures and all other loss or damage arising from or relating to Customer's network connections or telecommunications links or caused by traversing the internet.
- 3.2 Customer undertakes that each Authorised User shall keep a secure password for his or her account which password shall be treated as confidential. Customer shall not and shall ensure that its Authorised Users shall not access, store, distribute or transmit any Virus, or any material during the course of its use of the Service that: is unlawful, harmful, threatening, defamatory, obscene, infringing, harassing or racially or ethnically offensive; facilitates illegal activity; depicts sexually explicit images; promotes unlawful violence; is discriminatory based on race, gender, colour, religious belief, sexual orientation, disability, or any other protected class; or any other illegal activity; or causes damage or injury to any person or property.
- 3.3 Customer shall not, except as may be allowed by any applicable law which is incapable of exclusion by agreement between the parties, (i) 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; (ii) attempt to reverse compile, disassemble, reverse engineer or otherwise reduce to human-perceivable form all or any part of the Software; (iii) access all or any part of the Service and Documentation in order to build a product or service which competes with the Service; (iv) use the Service to provide services to third parties; (v) subject to clause 12.4, license, sell, rent, lease, transfer, assign, distribute, display, disclose, or otherwise commercially exploit the Service (vii) otherwise make the Service

available to any third party, or (viii) attempt to obtain, or assist third parties in obtaining access to the Service, other than as provided under this clause 3.

3.4 Pharmapod reserves the right, without liability to Pharmapod, to disable Customer's or any Authorised Users' access to any material that breaches the provisions of this clause 3, or to suspend or otherwise restrict Customer's or any Authorised Users' access to the Service for a breach of any terms this Agreement in addition to any other rights Pharmapod has in law or equity.

3.5 **The Pharmacy is not to upload any names or other information that is reasonably identifiable to a patient or customer. Only non-identifiable information about the patient or customer, specifically requested by the Platform interface (e.g., transaction number, date of birth) is to be uploaded.**

36 Customer shall be responsible to Pharmapod for the acts and omissions of Pharmacy Stores and Authorised Users as though they were the acts and omissions of the Customer. Customer shall defend, indemnify and hold Pharmapod harmless against any claim, damages or liability arising from the acts or omissions of the Pharmacy Stores and Authorised Users and their respective subcontractors and agents.

4. DATA

4.1 Customer shall own all rights, title and interest in and to all of Customer Data and shall have sole responsibility for the legality, reliability, integrity, accuracy and quality of all such data. Customer hereby grants, and represents and warrants that it has the right to grant, Pharmapod (its subcontractors and third party providers) an irrevocable, perpetual, non-exclusive, royalty free, transferable and assignable worldwide licence to process Customer Data to the extent contemplated by this Agreement.

4.2 In the event of any loss or damage to Customer Data, Customer's sole and exclusive remedy shall be for Pharmapod to use reasonable commercial endeavours to restore the lost or damaged Customer Data from the latest back-up of such Customer Data maintained by Pharmapod. Pharmapod shall not be responsible for any loss, destruction, alteration or disclosure of Customer Data caused by any third party.

4.3 In this clause 4.3, the terms controller, processor, personal data, health data, data subject and processing shall be as defined in the Data Protection Legislation as amended, re-enacted, extended, or such other future repeal or statutory re-enactment thereof from time to time. The parties acknowledge that the Customer is a controller and that Pharmapod is a processor. As such (i) Pharmapod shall process the Personal Data only in accordance with the terms of this Agreement, and clause 4.6. Customer shall, at all times, comply with its obligations as controller and shall ensure that each Pharmacy Store and all Authorised Users, as well as its subcontractors or third party providers or agents, comply with their obligations under all applicable Data Protection Legislation in relation to all Personal Data that is processed by Customer or on Customer's behalf under this

Agreement; (iii) Customer warrants that it is entitled to transfer the relevant Personal Data, including that Patient Data, to Pharmapod and warrants further that Pharmapod is entitled to transfer Personal Data to its subcontractors identified in Annex B so that they each respectively may lawfully

use, process and transfer such Personal Data in accordance with this Agreement; (v) Customer shall ensure that Customer, its employees, Authorised Users, Patients and all relevant third parties have, been duly informed of, and have given their consent, where required by Data Protection Legislation to the specific use, processing, and transfer of Personal Data as contemplated by this Agreement. This includes the transfer of specific Patient Data, where applicable to governmental or regulatory bodies;

- 4.4 Pharmapod may create anonymous data records from any Customer Data by excluding information that makes the data personally identifiable to an individual. Customer grants to Pharmapod a perpetual, irrevocable, royalty-free, fully paid, fully transferrable, assignable worldwide licence to create aggregated and anonymized Customer Data (“**Aggregated Data**”) and to use such Aggregated Data, and all modifications thereto and derivatives thereof, for any purpose. Pharmapod shall own all Aggregated Data and may transfer or assign any of its rights in the Aggregated Data to any third party.
- 4.5 The Service is provided on a software-as-a-service, hosted basis. As such, Customer authorises Pharmapod to permit Pharmapod’s third party hosting provider to have access to Customer Data, including Patient Data, for the purposes of providing its specifically contracted services.
- 4.6 Without prejudice to the generality of clause 4.3, Pharmapod shall, in relation to any Personal Data processed in connection with the performance by Pharmapod of its obligations under this Agreement:
- (a) process that Personal Data only on the written instructions of the Customer unless Pharmapod is required by applicable law to process Personal Data. Where Pharmapod is required by applicable law to process Personal Data, Pharmapod shall promptly notify the Customer of this before performing the processing required by the applicable laws unless those applicable laws prohibit Pharmapod from so notifying the Customer;
 - (b) not transfer any Personal Data outside of Canada unless the following conditions are fulfilled:
 - (i) the Customer or Pharmapod has provided appropriate safeguards in relation to the transfer;
 - (ii) the data subject has enforceable rights and effective legal remedies;
 - (iii) Pharmapod complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred; and
 - (iv) Pharmapod complies with reasonable instructions notified to it in advance by the Customer with respect to the processing of the Personal Data;

- (c) assist the Customer, at the Customer's cost, in responding to any request from a data subject and in ensuring compliance with its obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;
- (d) unless prohibited by law, notify the Customer without undue delay on becoming aware of a Personal Data breach;
- (e) at the written direction of the Customer, delete or return Personal Data and copies thereof to the Customer on termination of the Agreement unless required by Applicable Law to store the Personal Data; and
- (f) maintain complete and accurate records and information to demonstrate its compliance with this clause 4.6.

4.7 Each party shall ensure that it has in place appropriate technical and organisational measures, reviewed and approved by the other party, 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 its 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 by it).

4.8 The Customer consents to Pharmapod appointing the third party processors listed in Annex B as a third-party processor of Personal Data under this Agreement. Pharmapod confirms that it has entered or (as the case may be) will enter with the third-party processor into a written agreement incorporating terms which are substantially similar to those set out in this clause 4. As between the Customer and Pharmapod, Pharmapod shall remain fully liable for all acts or omissions of any third-party processor appointed by it pursuant to this clause 4.8 in respect of Personal Data.

4.9 Either party may, at any time on not less than 30 days' notice, amend clauses 4.6, 4.7 and 4.8 of this Agreement as part of the party's compliance with a data protection-related certification scheme that is recognized by the applicable data protection authority. The amendments shall be incorporated by duly executing an attachment to this Agreement.

5. FEES AND PAYMENT

5.1 Pharmapod will charge Customer the applicable Subscription Fees and Customer shall pay

the Subscription Fees in accordance with the payment terms set out in this clause 5.

- 5.2 Subject to clause 5.3, the Customer may, from time to time during the Term of this Agreement, purchase additional Pharmacy Subscriptions in excess of the number set out in the Order Form and Pharmapod shall grant access to the Service and the Documentation to such new Pharmacy Stores in accordance with the provisions of this Agreement.
- 5.3 Subscription Fees will be invoiced in advance to Customer on a monthly (or annual) recurring basis on the calendar day corresponding to the commencement of Customer's Pharmacy Subscription ("**Renewal Date**") and otherwise in accordance with the relevant Order Form. The Customer shall, within thirty (30) days of the date of the Pharmapod invoice or as stated on the invoice (whichever is the earlier), pay to Pharmapod the relevant Subscription Fees ("**Due Date**"). If a Pharmacy Subscription is purchased by the Customer part way through a billing term (e.g. a monthly, quarterly or annual billing term), the Subscription Fees shall be pro-rated for the remainder of such billing term.
- 5.4 If Pharmapod has not received payment for any invoiced Subscription Fees fifteen (15) days after the Due Date, and without prejudice to any other rights and remedies of Pharmapod, Pharmapod may notify the Customer in writing that if payment is not made within fifteen (15) days from that date, Pharmapod may, without liability to Customer, disable Customer's and all Authorised User's passwords, accounts and access to all or part of the Service and Pharmapod shall be under no obligation to provide any or all of the Service while the invoice(s) concerned remain unpaid; and interest shall accrue on a daily basis on such due amounts at a rate of 3% per annum above the prevailing base rate of the Bank of Canada commencing on the Due Date and continuing until fully paid, whether before or after judgment.
- 5.5 Should the Customer have a bona fide dispute in respect of all or any part of any invoice(s) it shall notify Pharmapod of the nature of that dispute in writing within five (5) days of receipt of the invoice giving the relevant details. Following any such notice, the Customer shall be entitled to withhold payment of the amount in dispute without interest, but shall pay the undisputed amount(s) in accordance with this Agreement. The parties shall cooperate in good faith to resolve any such dispute as amicably and promptly as possible and on settlement of the dispute the Customer shall make the appropriate payment in accordance with this Agreement.
- 5.6 All amounts and Subscription Fees stated or referred to in this Agreement: (i) shall be payable in such currency as set out in the Order Form; and (ii) are non-refundable. There are no refunds or credits for partially used periods. Pharmapod will bill Customer for applicable taxes as a separate line item on each invoice. Customer is responsible for payment of all sales and use taxes, value added taxes or similar charges.
- 5.7 Pharmapod may continually audit, review and verify access Customer's compliance with the material terms of this Agreement including but not limited to clause 3 and clause 5.

6. INTELLECTUAL PROPERTY

6.1 Customer acknowledges and agrees that Pharmapod and/or its licensors own all Intellectual Property in the Service, Software and the Documentation. Except as expressly stated herein, this Agreement does not grant Customer any rights to, or in, patents, copyrights, database rights, trade secrets, trade names, trademarks (whether registered or unregistered), or any other rights or licences in respect of the Service, Software or the Documentation. To the extent that any modifications or improvements to the Service, Software and/or the Documentation are carried out under or in connection with this Agreement, whether by Pharmapod alone or jointly with Customer, and whether based on ideas or suggestions from Customer, Pharmacy Stores, or Authorised Users, all Intellectual Property rights to such underlying ideas and in any resulting improvement or modifications shall be assigned to and shall vest with and be solely owned by Pharmapod.

7. CONFIDENTIALITY

7.1 Each Party (the "Receiving Party") acknowledges that, in the course of this Agreement, it may obtain Confidential Information from the other Party (the "Disclosing Party"). The Receiving Party shall keep in confidence all Confidential Information and shall not use Confidential Information except in furtherance of this Agreement. The Receiving Party shall not disclose any Confidential Information to any person without the Disclosing Party's prior written consent except that the Receiving Party may disclose the Confidential Information to its officers, employees and agents on a "need-to-know" basis (and in the case of Pharmapod to its subcontractors and third party providers), provided that all such disclosee's execute a written agreement with materially the same terms and conditions as this clause 7 and the Receiving Party remains ultimately liable for any breaches thereof. In the case of Pharmapod, it may make disclosures to investors or potential investors subject to such investors being aware of and agreeing in writing to comply with the terms equivalent to the terms of this clause 7.

7.2 The obligations of confidentiality shall continue during the term of this Agreement and thereafter, unless and until such Confidential Information falls within one of the exceptions outlined in clause 7.3.

7.3 Confidential Information shall not include any information that the Receiving Party can document: (a) is in the public domain as a result of no act or omission of the Receiving Party or its employees or agents; (b) is received by the Receiving Party from third parties without restriction and without breach of a duty of nondisclosure by such third party; (c) was independently developed by the Receiving Party without reliance on the Confidential Information; or (d) is required to be disclosed by operation of law or by order of a court or administrative body of competent jurisdiction (provided that, where permitted under law, prior to such disclosure, the Receiving Party shall first give notice to the Disclosing Party such that the Disclosing Party has the opportunity to contest such order or requirement of disclosure or seek appropriate protective order).

8. WARRANTIES; DISCLAIMERS

8.1 The Service provided by Pharmapod is provided “AS IS” and “AS Available”.

8.2 Customer warrants that the Customer Data, material, content or links provided to Pharmapod by or on behalf of Customer: (i) is owned by Customer or are provided with the express consent from the third party holding any ownership rights (including copyright) over such material, or, alternatively, are in the public domain, and are not owned by any third party or otherwise covered by copyright laws; (ii) does not breach the rights of any person or entity, including rights of publicity, privacy, or under applicable Data Protection Legislation and are not defamatory; and (iii) does not result in consumer fraud (including being false or misleading), product liability, tort, breach of contract, injury, damage or harm of any kind to any person or entity.

8.3 Other than with respect to the express warranties set forth herein, all implied warranties, including those of non-infringement, merchantability and fitness for a particular purpose, are hereby disclaimed and excluded by Pharmapod. Customer is solely responsible for determining the suitability of the Service for its use in light of any applicable regulations and in compliance with Data Protection Legislation. Customer assumes sole responsibility for results obtained from the use of the Service and the Documentation by the Customer, and for conclusions drawn from such use. Pharmapod shall have no liability for any damage caused by errors or omissions in any information, instructions or scripts provided to Pharmapod by the Customer in connection with the Service, or any actions taken by Pharmapod at the Customer's direction.

8.4 The Service may be subject to limitations, delays and other problems inherent in the use of the internet and electronic communications. Pharmapod is not responsible for any delays, delivery failures, or other damage resulting from such problems. Pharmapod shall not be responsible or liable for (i) the use, deletion, correction, destruction, damage, loss or failure to store any data, or (ii) any unauthorised access to, or alteration of, transmissions or data, or any material, information or data sent or received, regardless of whether the data is actually received by Pharmapod.

8.5 Customer shall defend, indemnify and hold Pharmapod harmless from and against any loss, damage, award, expenses, fines or penalties, or costs (including reasonable legal fees) incurred by Pharmapod in connection with any claims, demands, suits or proceedings made or brought against Pharmapod by a third party, including Customer's own customers or clients, based on, relating to or caused by (i) the unauthorised use of the Service by the Customer or its Authorised Users; (ii) any breach of this Agreement by Customer or its Authorised Users, including any warranties; and (iii) any breach of applicable laws or regulations, including Data Protection Legislation, by Customer or its Authorised Users.

9. LIMITATION OF LIABILITY

9.1 Nothing in these terms and conditions will limit or exclude any liability in a way that is not

permitted under applicable law.

- 9.2 Pharmapod shall not be liable to Customer (or any Authorised Users) for any direct, indirect, special, incidental, punitive or consequential loss, including loss of profits, loss of business, depletion of goodwill or reputation and/or similar losses or loss or corruption of data or information, or pure economic loss, incurred by Customer (or Authorised Users) in connection with the use of the Service, however caused and under any theory of liability. The Limitations on Pharmapod's liability in this section shall apply whether or not Pharmapod has been advised of or should have been aware of the possibility of any such losses arising.
- 9.3 Notwithstanding anything in this Agreement to the contrary, in no event shall Pharmapod's total aggregate liability arising out of or related to this Agreement or the Service or any third party services under any theory of law (including liability for negligence or breach of statutory duty or indemnity claim) exceed the amount of the Subscription Fees paid by Customer for the twelve (12) months prior to the occurrence of the event giving rise to the claim.

10. TERM AND TERMINATION

- 10.1 This Agreement shall come into force on the Effective Date and shall continue until terminated in accordance with the provisions of this Agreement or applicable law. This Agreement shall remain in effect and govern all Order Forms until (i) the end of the Subscription Term under such Order Forms; (ii) such Order Forms are terminated by the parties; or (iii) there has been full performance of the parties' respective obligations under such Order Forms.

This Agreement shall be automatically renewed as set out in the Order Form or as agreed by the parties.

- 10.2 Pharmacy Subscriptions commence on the earlier of the start date specified in the relevant Order Form and continue for the Subscription Term specified therein unless terminated earlier as provided for in this Agreement. Unless otherwise agreed upon in the applicable Order Form, Pharmacy Subscriptions will automatically renew and continue month-to-month at the list price then in effect at the time of renewal, unless and until Customer cancels the Pharmacy Subscription, or as otherwise set out in the Order Form. Customer must cancel a Pharmacy Subscription before the applicable Renewal Date to avoid being invoiced for the renewal. Upon cancellation of a Pharmacy Subscription, Customer will continue to have access to the Service through the end of the applicable billing period.
- 10.3 Without prejudice to any other rights or remedies to which the parties may be entitled, this Agreement may be terminated by either party as follows: (i) on thirty (30) days written notice to the other if the other has committed an irremediable material breach of this Agreement, specifying the nature of such breach. In the case of any invoiced amount being overdue, Pharmapod may terminate where Customer fails to pay having been given twenty (20) days written notice to pay. Such twenty (20) days is in addition to the fifteen

(15) days referred to in clause 5.4; (ii) with immediate effect by notice in writing if the other has committed a remediable material breach or willful and repeated non-material breaches and fails to remedy the same within thirty (30) days of receipt from the other of a notice clearly identifying the nature of the breach(es) and requiring such breach(es) to be rectified; (iii) with immediate effect by notice in writing if any Force Majeure Event prevents the performance of the whole or a substantial part of the other party's obligations for a continuous period of thirty (30) days after the date on which it should have been performed; or (iv) with immediate effect by notice in writing if the other should become insolvent or otherwise unable to pay its debts as and when they fall due, should have appointed to it a liquidator, receiver or administrator, should enter into an arrangement with its creditors or have presented against it a petition for its winding up other than for the purposes of effecting a solvent reorganisation which it does not promptly apply to have set aside, or be ordered to be wound up or liquidated or for any other reason cease or threaten to cease trading or business

- 10.4 On termination of this Agreement: (i) all licences granted under this Agreement and all right to access the Service shall immediately terminate; (ii) each party shall return and make no further use of any Documentation, Confidential Information, and other items (and all copies of them) belonging to the other party; (iii) the accrued rights of the parties as at termination, or the continuation after termination of any provision expressly stated to survive or implicitly surviving termination, shall not be affected or prejudiced; (iv) Pharmapod may destroy or otherwise dispose of any of Customer Data in its possession unless Pharmapod receives, no later than ten (10) days after the effective date of the termination of this Agreement, a written request for the delivery to Customer of the then most recent back-up of Data. Pharmapod shall use reasonable commercial endeavours, at Customer's cost, to deliver the back-up within thirty (30) days of the request, provided that Customer, at that time, is up to date with all fees and charges due.

11. FORCE MAJEURE

- 11.1 Neither party shall in any circumstances be in breach of this Agreement nor liable for delay in performing, or failure to perform, any of its obligations under this Agreement if such delay or failure results from a Force Majeure Event. If either party is prevented or delayed in performing its obligations due to a Force Majeure Event for a period in excess of thirty (30) days the other party may terminate this Agreement in accordance with Clause 10.2 (iii).

12. MISCELLANEOUS

- 12.1 A waiver of any right under this Agreement is only effective if it is in writing and it applies only to the party to whom the waiver is addressed and to the circumstances for which it is given. Unless specifically provided otherwise, rights arising under this Agreement are cumulative and do not exclude rights provided by law.

- 12.2 If any provision (or part of a provision) of this Agreement is found by any court or administrative body of competent jurisdiction to be invalid, unenforceable or illegal, the other provisions shall remain in force. If any invalid, unenforceable or illegal provision would be valid, enforceable or legal if some part of it were deleted, the provision shall apply with whatever modification is necessary to give effect to the commercial intention of the parties.
- 12.3 This Agreement, and any documents referred to in it, constitute the whole agreement between the parties and supersede any previous arrangement, understanding or agreement between them relating to the subject matter they cover. Each of the parties acknowledges and agrees that in entering into this Agreement it does not rely on any undertaking, promise, assurance, statement, representation, warranty or understanding (whether in writing or not) of any person (whether party to this Agreement or not) relating to the subject matter of this Agreement, other than as expressly set out in this Agreement.
- 12.4 Neither party shall assign or transfer any interest, obligation or right in or under this Agreement without the other's prior written consent, save that the Customer may transfer this Agreement or any right or obligation in or under it to any of its Affiliates and Pharmapod may transfer this Agreement or any right or obligation to any entity that acquires Pharmapod by purchase of stock or by merger or otherwise, or by obtaining substantially all of Pharmapod's assets.
- 12.5 Nothing in this Agreement 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). The relationship of Pharmapod and Customer established by this Agreement is that of independent contractors. All financial and other obligations associated with the businesses of the parties are their sole respective responsibilities.
- 12.6 Any notice or other communication required, permitted, or desired to be given under this Agreement must be in writing and sent by electronic mail to [insert email address]. The notice shall be deemed to have been received on the Business Day following the date that the notice was sent.
- 12.7 This Agreement and any disputes or claims arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) are governed by, and construed by the laws of the Province, without regard to its conflict of law principles. The parties irrevocably agree that the courts located in the Province shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this Agreement or its subject matter or formation (including non- contractual disputes or claims). The U.N. Convention of Contracts for the International Sale of Goods is expressly excluded from any interpretation of this Agreement.

12.8 The parties hereto confirm that they have requested that this Agreement and all related documents be drafted in English. Any French translation hereof has been provided for information purposes only and does not have any legal value nor create any contractual relationship between the parties. *Les parties aux présentes ont exigé que la présente entente et tous les documents connexes soient rédigés en anglais. Toute traduction de celle-ci est non-officielle, est fournie à des fins d'information seulement et ne crée aucun lien contractuel entre les parties.*

Annex A – Pharmapod and Data

This document provides more information generally on what data, including personal data, that the Pharmapod Service collects either automatically or by default. References to Patient Data means data (personal and health) collected by the Customer at the Pharmacy Stores who use the Pharmapod Service.

Description of how the Pharmapod Service works

Each Customer will define what it considers constitutes an “Incident” and decides what Patient Data they wish to collect such as for example, name, date of birth, email address etc. At all times the Customer decides the type of data it wishes to collect and it is the Customer, the Pharmacy Stores and the Authorised Users who transfer or input the data onto the Pharmapod system.

Pharmapod (and where applicable its subcontractors and/or third party providers) will then store and process this data solely for the purpose of providing its services to the Customer and in strict accordance with the specific requirements of the Customer (who for these purposes will be the controller), as laid out in the Terms of Service.

Customer Privacy Policies:

A Customer should have an appropriate privacy policy in place in order to ensure that it has the requisite authority from its own personnel and from its Patients to allow Pharmapod to store and process the information necessary or desirable in order for the Customer to benefit from the Pharmapod Service.

Different jurisdictions have different requirements relating to the level and type of authorisation or consent required from a Patient whose information the Customer is collecting. It is the Customer’s responsibility to comply with all relevant requirements and applicable laws as the controller in respect of personal data collected. Customers should pay particular attention if they collect any health data and should ensure that they have, where relevant, the requisite Patient consent, including explicit consent, for the collection and processing of such data by and on behalf of the Customer.

In general, all privacy policies should comply with the requirements of the Data Protection Legislation.

Annex B - Approved Processors

Name	Type of Processing
1. Cloud.ca	Data Storage and Hosting
2. ISMP Canada	Data Storage and Hosting
3. CMIRPS	Data Storage and Hosting

