

# End User License Terms

These End User License Terms (“**Terms**”) stipulate the end user licensing terms between vitagroup Health Intelligence GmbH, Hamburger Straße 273b, 38114 Braunschweig, Germany, registered with the commercial register of the local court of Braunschweig under HRB 201749 (“**vitagroup**”) and End User (as defined below) who concluded an End User Agreement for the use of the HIP CDR, as specified in these Terms.

With its HIP CDR, vitagroup offers End Users a software-based, centralized data repository that stores health data in a highly structured and highly available manner, independent of application systems. HIP CDR integrates healthcare data and ensures the exchange and transformation of existing systems, including semantic enrichment. Data is provided and utilized by or for applications and research purposes. HIP CDR also creates the basis for new applications and enables the rapid development of natively interoperable applications.

## DEFINITIONS

The capitalized words not otherwise defined in the body of these Terms shall have the following meanings:

“**Affiliate**” shall mean any entity that directly or indirectly controls, is controlled by, or is under common control with End User or vitagroup, as the case may be, but only for so long as the control exists. “Control”, for purposes of this definition, means direct or indirect ownership or control of more than 50% of the voting interests.

“**Data Protection Laws**” means all privacy laws applicable to any personal data processed under or in connection with this agreement, including, without limitation, the General Data Protection Regulation 2016/679 (“**GDPR**”), the Privacy and Electronic Communications Directive 2002/58/EC (as the same may be superseded by the Regulation on Privacy and Electronic Communications (“**ePrivacy Regulation**”)) and all national legislation implementing or supplementing the foregoing and all associated codes of practice and other guidance issued by any applicable data protection authority, all as amended, re-enacted and/or replaced and in force from time to time.

“**End User**” means the entity that concluded an End User Agreement for the use of HIP CDR and to which HIP CDR is licensed according to these Terms EULA. End Users are only entities within the meaning of section 14 German Civil Code (BGB).

“**HIP CDR**” means vitagroup’s HIP Clinical Data Repository as specified in the End User Agreement.

“**End User Agreement**” means the agreement between End User and vitagroup for the use of HIP CDR.

“**Proprietary Rights**” means rights in patents, utility models, trademarks, service marks, trade names, other trade-identifying symbols and inventions, copyrights, design rights, database rights, rights in know-how, trade secrets and any other intellectual property

rights, anywhere in the world, whether registered or unregistered, and including applications for the grant of any such rights.

“**Services**” means End User-specific services of vitagroup as specified in the End User Agreement (such as training).

“**Support**” means the maintenance and support services relating to HIP CDR by vitagroup as specified in the End User Agreement.

## 1 Acceptance of Terms / HIP CDR

1.1 **Terms:** The Terms are part of the End User Agreement and must be accepted by End User. If End User does not accept the Terms, End User is not entitled to use HIP CDR and no rights to HIP CDR are granted to End User by vitagroup.

1.2 **Scope of License.** vitagroup makes HIP CDR available to End User in accordance with the license model set forth in the End User Agreement (“**License Model**”). The respective License Model has the scope described in the End User Agreement.

## 2 Support and Services

**Scope.** Support and Services shall only be provided by vitagroup in compliance with the services listed in the End User Agreement. The same applies to vitagroup’s obligations regarding SLA and IT security.

### Use of HIP CDR

2.1 **Access.** HIP CDR is accessed via an interface (API) over the Internet. The End User must ensure a sufficient Internet connection and comply with the system requirements specified in the End User Agreement for the use of HIP CDR. The transfer point is vitagroup's gateway to the Internet.

2.2 **Authorized Users.** The End User may only grant access to HIP CDR to persons within its own organization. If a user quota is specified in the End User Agreement, the End User may only grant access to the specified number of users.

If the End User wishes to grant access to persons outside his organization, either companies affiliated with him within the meaning of section 15 of the German Stock Corporation Act (AktG) or external third parties (e.g. service providers) (individually or collectively “**External Users**”), this is only permitted with the express consent of vitagroup. External Users shall be deemed vicarious agents of the End User within the meaning of section 278 of the German Civil Code (BGB). The End User shall indemnify vitagroup against all claims of third parties which these third parties assert against vitagroup due to violations of contractual or legal obligations in connection with the execution of these Terms, insofar as External Users are responsible for these violations.

2.3 **Blocking.** vitagroup may temporarily block access to HIP CDR for the End User if there are concrete indications that the End User is in breach of statutory provisions or if an End User violates the obligations imposed on him in accordance with the End User Agreement or the Terms in relation to HIP CDR. vitagroup will take into

account the legitimate interests of End User when deciding on a block, in particular whether there are indications that the End User is not responsible for the violation. vitagroup will lift the block as soon as the violation or the default in payment has ended.

- 2.4 **Notification of Defects.** End User shall immediately notify vitagroup of any faults or defects in HIP CDR, stating all necessary and useful information for identifying and rectifying defects.
- 2.5 **Unauthorized Access.** End User shall take all necessary measures to prevent or terminate unauthorized access or unauthorized use of HIP CDR via the accesses made available to it.
- 2.6 **Improvements.** In order to improve HIP CDR or to adapt HIP CDR to the state of the art, vitagroup may adapt HIP CDR after the commencement of the End User Agreement without the End User's consent. However, such a change may not result in the originally agreed functionalities no longer being available to the End User or the originally agreed requirements in the End User Agreement no longer being fulfilled in a more than insignificant way.
- 2.7 **No Adaptation.** vitagroup's obligation to maintain access to HIP CDR does not include the adaptation of HIP CDR to changed operating conditions and further technical and functional developments, such as changes to the IT environment, in particular changes to the End User's hardware or operating system, adaptation to the functional scope of third party products or the establishment of compatibility with new data formats, if not explicitly agreed to in the End User Agreement.
- 2.8 **Responsibility for Data.** HIP CDR merely functions as a backend for the highly structured and highly available storage of data. End User is solely responsible for the type and content of the data provided to vitagroup. vitagroup has no influence on the nature of the data transmitted by End User. The content and scope as well as the quality, completeness, reliability and/or the factual and formal accuracy (including the correctness of the presentation and spelling) of the data or other data or information obtained from external data sources are not checked by vitagroup.
- 2.9 **Independent Examination.** vitagroup's services are only intended as technical support and cannot replace an independent examination and critical judgement by End User as to whether and to what extent the data is suitable or expedient for the intended use of HIP CDR. In particular, vitagroup does not carry out any legal examination as to whether the End User's intended use of the data is lawful.
- 2.10 **Development/Optimization.** vitagroup reserves the right to aggregate the data stored in the HIP CDR by End User in anonymized form and to use it in this form for the purpose of needs-based design, further development and optimization of the HIP CDR and for the purpose of providing the HIP CDR and Support/Services to End User according to the End User Agreement.

### **3 End User Data License**

- 3.1 **Rights in End User Content.** End User grants vitagroup the royalty-free, non-exclusive, non-transferable, sublicensable only to Affiliates, rights of use to the data (in particular health data) and other content from its sphere necessary for the purpose of fulfilling vitagroup's obligations from these Terms.

### **4 Intellectual Property / Feedback**

- 4.1 **Intellectual Property Rights.** vitagroup shall retain all rights, title and interest in and to HIP CDR, as well as all Proprietary Rights embodied therein or relating thereto, including any intellectual property that is generated in HIP CDR that is calculated from, but which does not specifically include, data of End User.
- 4.2 **Reverse Engineering.** End User shall not reverse engineer, decompile, disassemble, modify, create derivative works of HIP CDR or otherwise derive, attempt to derive, or allow or assist any third party to derive the source code underlying HIP CDR, as far as the source code has not been disclosed under an open source license.
- 4.3 **Feedback.** In case End User provides vitagroup with input regarding vitagroup's products, services, and/or business or technology plans, including, without limitation, comments or suggestions regarding the possible creation, modification, correction, improvement or enhancement of HIP CDR and/or Support/Services (collectively "**Feedback**"), vitagroup shall be entitled to use the Feedback for any purpose without notice, restriction or remuneration of any kind to End User.

### **5 Reporting/Audit**

- 5.1 **Reporting.** End User shall document and report the use of HIP CDR by End User (e.g. in relation to EHRs) as specified in End User Agreement ("**Reporting**").
- 5.2 **Audit.** If vitagroup has justified doubts about the Reporting or if End User fails to provide the Reporting to vitagroup despite a reminder, vitagroup has the right to have an audit carried out at End User by an independent auditor who is obliged to maintain confidentiality. As part of the audit, the End User shall grant the auditor access to its business premises during normal business hours and provide the auditor with all documents and information relevant for the inspection and verification of the information provided. vitagroup shall give End User one week's notice of the audit in writing. End User shall bear the costs of the audit if the audit reveals a deviation of 3% between the use of HIP CDR actually used and the use of HIP CDR notified or if the audit was carried out due to a lack of information provided by End User.
- 5.3 **Return of Documents.** Upon termination of the End User Agreement, the End User shall return to vitagroup or irrevocably delete any materials and documents received under the End User Agreement from vitagroup. If copies of HIP CDR and the materials and documents are located on End User's data processing systems, including the data processing systems operated on End User's behalf, End User

shall delete these materials and documents or have them deleted and confirm the deletion to vitagroup in writing.

## **6 Warranties**

- 6.1 **General Representations.** The End User represents and warrants to vitagroup that it has the right to enter into the End User Agreement and to grant all rights as provided in the End User Agreement to vitagroup, and that the End User Agreement constitutes a valid binding obligation of End User, enforceable against End User in accordance with the End User Agreement and does not conflict with or violate any agreements End User has with any third party.
- 6.2 **No Third Party Rights.** End User represents and warrants that no rights of third parties conflict with the execution of the End User Agreement with regard to all contributions originating from his sphere (in particular the health data).
- 6.3 **Indemnity.** End User shall indemnify vitagroup against all third-party claims resulting from the use of data originating from his sphere (in particular health data) by vitagroup as allowed under the End User Agreement and shall bear the damages and costs - including the necessary legal defense.

## **7 Data Protection**

- 7.1 **Data Protection Laws.** End User and vitagroup shall comply with the Data Protection Laws applicable to them.
- 7.2 **Processing Agreement.** In case the provision of HIP CDR by vitagroup to End User requires the processing of personal data by vitagroup, vitagroup and End User shall, if necessary, conclude a data processing agreement.

## **8 General**

- 8.1 **Text Form.** All declarations concerning and amendments to these Terms including this form requirement must be submitted in writing. Unless specifically stated otherwise in these Terms, text form according to section 126b German Civil Code (BGB) (e.g. e-mail) suffices to fulfil the written form requirement.
- 8.2 **Governing Law and Jurisdiction.** These Terms are governed by the laws of Germany and the parties submit to exclusive jurisdiction of the courts located in Braunschweig, Germany. The United Nations Convention on the International Sale of Goods (CISG) shall not apply.