

## Innovaccer InScribe Terms of Use

Last Updated: June 26, 2024

Welcome, and thank you for your interest in Innovaccer Inc. (“**Innovaccer**,” “**we**,” or “**us**”) and our **Innovaccer InScribe** solution, along with our related websites, networks, applications, mobile applications, and other services provided by us (collectively, the “**Service**”). These Terms of Use are a legally binding contract between you and Innovaccer regarding your use of the Service.

### **PLEASE READ THE FOLLOWING TERMS CAREFULLY.**

**BY CLICKING “I ACCEPT,” OR BY DOWNLOADING, INSTALLING, OR OTHERWISE ACCESSING OR USING THE SERVICE**, YOU AGREE THAT YOU HAVE READ AND UNDERSTOOD, AND, AS A CONDITION TO YOUR USE OF THE SERVICE, YOU AGREE TO BE BOUND BY, THE FOLLOWING TERMS AND CONDITIONS, INCLUDING INNOVACCR’S PRIVACY POLICY (TOGETHER, THESE “**TERMS**”). IF YOU ARE NOT ELIGIBLE, OR DO NOT AGREE TO THE TERMS, THEN YOU DO NOT HAVE OUR PERMISSION TO USE THE SERVICE. YOUR USE OF THE SERVICE, AND INNOVACCR’S PROVISION OF THE SERVICE TO YOU, CONSTITUTES AN AGREEMENT BY INNOVACCR AND BY YOU TO BE BOUND BY THESE TERMS.

**ARBITRATION NOTICE.** Except for certain kinds of disputes described in Section 15, you agree that disputes arising under these Terms will be resolved by binding, individual arbitration, and BY ACCEPTING THESE TERMS, YOU AND Innovaccer ARE EACH WAIVING THE RIGHT TO A TRIAL BY JURY OR TO PARTICIPATE IN ANY CLASS ACTION OR REPRESENTATIVE PROCEEDING. YOU AGREE TO GIVE UP YOUR RIGHT TO GO TO COURT to assert or defend your rights under this contract (except for matters that may be taken to small claims court). Your rights will be determined by a NEUTRAL ARBITRATOR and NOT a judge or jury. (See Section 15.)

- 1. Innovaccer Service Overview.** Our Service is an AI experience that helps healthcare providers by reducing their documentation burden. Its features include recording conversations with the patient, listening to patient-provider conversation, converting the voice recording to text, generating a transcript of the conversation and note summaries, including list of potential diagnoses for the provider’s consideration, based thereon which the providers can edit and copy to their EHR. The Service provides you with evidence-based tools and knowledge to support your decision making in determining the best course of action for your particular patient. It provides a differential diagnosis, not a sole or official medical causation or determination. You are required to exercise your professional judgment in determining the clinical care to be provided to the patient. The Services are provided to enable you to independently review and confirm the transcript and note summaries, it is not intended for you to rely solely on any Results (as defined herein) and it is not to be used as a substitution or replacement of your professional medical judgment.

2. **Eligibility.** You must be a credentialed medical provider or an authorized representative thereof to use the Service. By agreeing to these Terms, you represent and warrant to us that your registration and your use of the Service is in compliance with any and all applicable laws and regulations. You represent that you have obtained authorization for us to record, transmit, store and process any data that you provide (or any patient or other individual provides) to us during the use of the Services. If you are an entity, organization, or company, the individual accepting these Terms on your behalf represents and warrants that they have authority to bind you to these Terms and you agree to be bound by these Terms.
3. **Accounts and Registration.** To access the Service, you may need to register for an account. You agree that the information you provide to us is accurate and that you will keep it accurate and up to date at all times. You are solely responsible for maintaining the confidentiality of your account, and you accept responsibility for all activities that occur under your account. If you believe that your account is no longer secure, then you must immediately notify us at [support@innovaccer.com](mailto:support@innovaccer.com).
4. **General Payment Terms.** Innovaccer reserves the right to determine pricing for the Service. Innovaccer will make reasonable efforts to keep pricing information published on the website or will otherwise provide such information to you. Use of the beta/trial version of the Services will be provided for free. You may need to upgrade to a paid plan for actual production use after the expiry of the free trial period. Before Innovaccer charges any fees, you will have an opportunity to review and accept the fees that you will be charged. All fees are in U.S. Dollars and are non-refundable.
  - 4.1 **Change in fees.** Innovaccer may change the fees for any feature of the Service, including additional fees or charges, if Innovaccer gives you advance notice of changes before they apply. Innovaccer, at its sole discretion, may make promotional offers with different features and different pricing to any of Innovaccer's customers. These promotional offers, unless made to you, will not apply to your offer or these Terms.
  - 4.2 **Authorization.** You authorize Innovaccer to charge all sums for the orders that you make and any level of Service you select as described in these Terms or published by Innovaccer, including all applicable taxes, to the payment method specified in your account. If you pay any fees with a credit card, Innovaccer may seek pre-authorization of your credit card account prior to your purchase to verify that the credit card is valid and has the necessary funds or credit available to cover your purchase.
5. **Licenses**
  - 5.1 **Limited Access Rights.** Subject to your complete and ongoing compliance with these Terms, Innovaccer hereby provides you, solely for your

professional use, a limited, non-exclusive, non-transferable, non-assignable, revocable right to access and use the Service.

- 5.2 **License Restrictions.** Except and solely to the extent such a restriction is impermissible under applicable law, you may not: (a) reproduce, distribute, publicly display, or publicly perform the Service; (b) make modifications to the Service; or (c) interfere with or circumvent any feature of the Service, including any security or access control mechanism. If you are prohibited under applicable law from using the Service, you may not use it.
  - 5.3 **Feedback.** If you choose to provide input and suggestions regarding problems with or proposed modifications or improvements to the Service (“**Feedback**”), then you hereby grant Innovaccer an unrestricted, perpetual, irrevocable, non-exclusive, fully-paid, royalty-free right to use the Feedback in any manner and for any purpose, including to improve the Service and create other products and services.
  - 5.4 Innovaccer may monitor through the use of tracking tools, such as pixel tags, cookies or similar technologies in the Services to enable Innovaccer to compile metrics and analysis to improve the Services and to use for other internal purposes, for example, number of users, usage levels, nature and type of application usage, transactions processed, configurations, and reports processed using the Services. You consent to Innovaccer’s monitoring as provided in this section.
6. **Ownership; Proprietary Rights.** The Service is owned and operated by Innovaccer. The visual interfaces, graphics, design, compilation, information, data, computer code (including source code or object code), products, software, services, and all other elements of the Service (“**Materials**”) provided by Innovaccer are protected by intellectual property and other laws. All Materials included in the Service are the property of Innovaccer or its third party licensors. Except as expressly authorized by Innovaccer, you may not make use of the Materials. Innovaccer reserves all rights to the Materials not granted expressly in these Terms.

## 7. Third Party Terms

- 7.1 **Third Party Services and Linked Websites.** Innovaccer may utilize third party tools and services as part of the Service that enable you to export information to third party services, including through features that allow you to link your account on Innovaccer with an account on the third party service. By using the Services, you agree that Innovaccer may transfer that information to the applicable third party service. Third party services are not under Innovaccer’s control, and, to the fullest extent permitted by law, Innovaccer is not responsible for any third party service’s use of your exported information. The Service may also contain links to third party websites. Linked websites

are not under Innovaccer's control, and Innovaccer is not responsible for their content.

- 7.2 **Third Party Software.** The Service may include or incorporate third party software components that are generally available free of charge under licenses granting recipients broad rights to copy, modify, and distribute those components ("**Third Party Components**"). Although the Service is provided to you subject to these Terms, nothing in these Terms prevents, restricts, or is intended to prevent or restrict you from obtaining Third Party Components under the applicable third party licenses or to limit your use of Third Party Components under those third party licenses.

## 8. **Communications.**

- 8.1 **External Communications.** Our Services may involve: (i) enabling your communicating with the patients or other third parties using through VoIP/CTI systems, emails, messages, voice recorded calls, in-app messages or by other means and us recording such communication, and/ or (ii) us collecting, recording, storing and processing patient/third party information in Services ("**External Communication**"). In connection with External Communication, you understand that we offer a self-service solution, and you shall be solely responsible for or compliance with the law while using the Services. In particular, you represent to us that you shall be solely responsible for obtaining legally valid authorizations from the individuals or other third parties as applicable, for us to communicate with them, record the conversations with them and/or collect, store and process their information/data. In addition, you will only use External Communication features to monitor and record patient conversations with physicians and for no other use. You further understand and agree that you shall be solely responsible for determining the content of External Communication and the recipients thereof.

You also represent and agree that you will use the Services for purely informational purposes only and that you will not use the Services to transmit marketing or promotional content.

- 8.2 **Storage.** You understand and agree that we shall store the recordings of External Communication only until the time the transcripts are made only. The transcripts and note summaries based thereon are stored for 30 days only.
- 8.3 **Push Notifications.** When you install our app on your mobile device, you agree to receive push notifications, which are messages an app sends you on your mobile device when the app is not on. You can turn off notifications by visiting your mobile device's "settings" page.

8.4 **Email.** We may send you emails concerning our products and services, as well as those of third parties. You may opt out of promotional emails by following the unsubscribe instructions in the promotional email itself.

9. **Prohibited Conduct.** BY USING THE SERVICES YOU AGREE NOT TO:

- a. use the Service for any illegal purpose or in violation of any local, state, national, or international law;
- b. use the Service to contact patients without appropriate authorization;
- c. violate, or encourage others to violate, any right of a third party, including by infringing or misappropriating any third party intellectual property right;
- d. interfere with security-related features of the Service, including by: (i) disabling or circumventing features that prevent or limit use or copying of any content; or (ii) reverse engineering or otherwise attempting to discover the source code of any portion of the Service except to the extent that the activity is expressly permitted by applicable law;
- e. perform any fraudulent activity including impersonating any person or entity, claiming a false affiliation, accessing any other Service account without permission;
- f. sell or otherwise transfer the access granted under these Terms or any Materials (as defined in Section 6) or any right or ability to view, access, or use any Materials; or
- g. attempt to do any of the acts described in this Section 9 or assist or permit any person in engaging in any of the acts described in this Section 9.

10. **Modification of these Terms.** We reserve the right to change these Terms on a going-forward basis at any time upon 7 days' notice. Please check these Terms periodically for changes. If a change to these Terms materially modifies your rights or obligations, we may require that you accept the modified Terms in order to continue to use the Service. Material modifications are effective upon your acceptance of the modified Terms. Immaterial modifications are effective upon publication. Except as expressly permitted in this Section 10, these Terms may be amended only by a written agreement signed by authorized representatives of the parties to these Terms. Disputes arising under these Terms will be resolved in accordance with the version of these Terms that was in effect at the time the dispute arose.

11. **Term, Termination and Modification of the Service**

- 11.1 **Term.** These Terms are effective beginning when you accept the Terms or first download, install, access, or use the Service, and ending when terminated as described in Section 11.2.
- 11.2 **Termination.** If you violate any provision of these Terms, your authorization to access the Service and these Terms automatically terminate. In addition, Innovaccer may, at its sole discretion, terminate these Terms or your account on the Service, or suspend or terminate your access to the Service, at any time for any reason or no reason, with or without notice. You may terminate your account and these Terms at any time by contacting customer service at [support@innovaccer.com](mailto:support@innovaccer.com).
- 11.3 **Effect of Termination.** Upon termination of these Terms: (a) your license rights will terminate and you must immediately cease all use of the Service; (b) you will no longer be authorized to access your account or the Service; (c) you must pay Innovaccer any unpaid amount that was due prior to termination; and (d) all payment obligations accrued prior to termination and Sections 5.3, 6, 11.3, 12, 13, 14, 15 and 16 will survive.
- 11.4 **Modification of the Service.** Innovaccer reserves the right to modify or discontinue the Service at any time (including by limiting or discontinuing certain features of the Service), temporarily or permanently, without notice to you. Innovaccer will have no liability for any change to the Service or any suspension or termination of your access to or use of the Service.
12. **Indemnity.** To the fullest extent permitted by law, you are responsible for your use of the Service, and you will defend and indemnify Innovaccer and its officers, directors, employees, consultants, affiliates, subsidiaries and agents (together, the "Innovaccer Entities") from and against every claim brought by a third party, and any related liability, damage, loss, and expense, including reasonable attorneys' fees and costs, arising out of or connected with: (a) your unauthorized use of, or misuse of, the Service; (b) your violation of any portion of these Terms, any representation, warranty, or agreement referenced in these Terms, or any applicable law or regulation; (c) your violation of any third party right, including any intellectual property right or publicity, confidentiality, other property, or privacy right; (d) any dispute or issue between you and any third party; or (e) your provision of professional medical services. We reserve the right, at our own expense, to assume the exclusive defense and control of any matter otherwise subject to indemnification by you (without limiting your indemnification obligations with respect to that matter), and in that case, you agree to cooperate with our defense of those claims.
13. **Disclaimers; No Warranties**

THE SERVICE AND ALL MATERIALS AND CONTENT AVAILABLE THROUGH THE SERVICE ARE PROVIDED "AS IS" AND ON AN "AS AVAILABLE" BASIS. INNOVACER DISCLAIMS ALL WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, RELATING TO THE SERVICE AND ALL MATERIALS AND CONTENT AVAILABLE THROUGH THE SERVICE, INCLUDING: (A) ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, QUIET ENJOYMENT, OR NON-INFRINGEMENT; AND (B) ANY WARRANTY ARISING OUT OF COURSE OF DEALING, USAGE, OR TRADE. INNOVACER DOES NOT WARRANT THAT THE SERVICE OR ANY PORTION OF THE SERVICE, OR ANY MATERIALS OR CONTENT OFFERED THROUGH THE SERVICE, WILL BE UNINTERRUPTED, SECURE, OR FREE OF ERRORS, VIRUSES, OR OTHER HARMFUL COMPONENTS, AND INNOVACER DOES NOT WARRANT THAT ANY OF THOSE ISSUES WILL BE CORRECTED.

NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED BY YOU FROM THE SERVICE OR INNOVACER ENTITIES OR ANY MATERIALS OR CONTENT AVAILABLE THROUGH THE SERVICE WILL CREATE ANY WARRANTY REGARDING ANY OF THE INNOVACER ENTITIES OR THE SERVICE THAT IS NOT EXPRESSLY STATED IN THESE TERMS. WE ARE NOT RESPONSIBLE FOR ANY DAMAGE THAT MAY RESULT FROM THE SERVICE AND YOUR DEALING WITH ANY OTHER SERVICE USER. YOU UNDERSTAND AND AGREE THAT YOU USE ANY PORTION OF THE SERVICE AT YOUR OWN DISCRETION AND RISK, AND THAT WE ARE NOT RESPONSIBLE FOR ANY DAMAGE TO YOUR PROPERTY (INCLUDING YOUR COMPUTER SYSTEM OR MOBILE DEVICE USED IN CONNECTION WITH THE SERVICE) OR ANY LOSS OF DATA.

WE MAKE NO WARRANTY OF ANY KIND THAT THE SERVICES INCLUDING THE ANALYTICS AND REPORTS PROVIDED BY US OR GENERATED BY THE SERVICES (COLLECTIVELY, "RESULTS") OR THE USE THEREOF WILL MEET YOUR OR ANY OTHER PERSON'S REQUIREMENTS, ACHIEVE ANY INTENDED RESULT, OR BE ACCURATE, COMPLETE OR UP TO DATE. THE RESULTS ARE PROVIDED FOR GENERAL INFORMATION PURPOSES ONLY AND ON AN "AS-IS" BASIS. YOU SHOULD MAKE YOUR OWN DETERMINATIONS RELATING TO THE ADEQUACY AND ACCURACY OF THE RESULTS. TO THE EXTENT PERMITTED BY LAW, WE DO NOT ASSUME ANY RESPONSIBILITY OR LIABILITY, AND YOU HEREBY WAIVE AND RELEASE US FROM ALL RESPONSIBILITY OR LIABILITY ARISING FROM OR CONNECTED WITH YOUR USE OR RELIANCE ON THE RESULTS. WE RECOMMEND YOU SEEK DOMAIN EXPERTISE FROM A QUALIFIED PROFESSIONAL TO VERIFY THE ACCURACY, SUITABILITY, RELIABILITY, AND USEFULNESS OF THE RESULTS.

YOU EXPRESSLY ACKNOWLEDGE AND AGREE THAT THE SERVICE IS PROVIDED FOR INFORMATIONAL PURPOSES ONLY AND IS NOT INTENDED TO REPLACE OR SUBSTITUTE AND SHOULD NOT BE USED IN PLACE OF YOUR

PROFESSIONAL MEDICAL JUDGMENT. YOU EXPRESSLY ACKNOWLEDGE AND AGREE THAT THE RESULTS DO NOT PROVIDE A SPECIFIC PREVENTIVE, DIAGNOSTIC OR TREATMENT RECOMMENDATION, OUTPUT OR DIRECTIVE BUT RATHER PROVIDE CONDITION, DISEASE AND/OR PATIENT SPECIFIC INFORMATION AND OPTIONS TO YOU THAT YOU ARE RESPONSIBLE TO REVIEW AND YOU ARE RESPONSIBLE TO DETERMINE THE BEST COURSE OF ACTION UTILIZING YOUR PROFESSIONAL JUDGMENT FOR YOUR PATIENT. WE ARE NOT RESPONSIBLE FOR YOUR CLINICAL CHOICES AND ACCEPT NO LIABILITY WHATSOEVER FOR YOUR CLINICAL CHOICES OR LACK THEREOF.

YOU FURTHER UNDERSTAND AND AGREE THAT (A) THE SERVICES MAY INCLUDE FEATURES AND FUNCTIONALITIES THAT ARE POWERED BY AI TECHNOLOGIES AND THAT THE RESULTS GENERATED BY SUCH TECHNOLOGIES ARE BASED ON ITS TRAINING DATA AND INNOVACER DOES NOT GUARANTEE THE ACCURACY OR COMPLETENESS OF SUCH RESULTS; (B) YOU ARE RESPONSIBLE FOR FINAL REVIEW OF THE RESULTS INCLUDING ANY CLINICAL NOTES, ORDERS, DIAGNOSES AND OTHER CLINICAL DOCUMENTATION AND/OR TRANSCRIPTS GENERATED BY THE SERVICES, AND (C) INNOVACER SHALL NOT HAVE ANY LIABILITY WHATSOEVER FOR THE ACCURACY OR COMPLETENESS OF RESULTS OR FOR ANY DECISION MADE OR ACTION TAKEN BY YOU IN RELIANCE UPON ANY RESULTS.

THE LIMITATIONS, EXCLUSIONS AND DISCLAIMERS IN THIS SECTION APPLY TO THE FULLEST EXTENT PERMITTED BY LAW. Innovacer does not disclaim any warranty or other right that Innovacer is prohibited from disclaiming under applicable law.

#### **14. Limitation of Liability**

TO THE FULLEST EXTENT PERMITTED BY LAW, IN NO EVENT WILL THE INNOVACER ENTITIES BE LIABLE TO YOU FOR ANY INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR PUNITIVE DAMAGES (INCLUDING DAMAGES FOR LOSS OF PROFITS, GOODWILL, OR ANY OTHER INTANGIBLE LOSS) ARISING OUT OF OR RELATING TO YOUR ACCESS TO OR USE OF, OR YOUR INABILITY TO ACCESS OR USE, THE SERVICE OR ANY MATERIALS OR CONTENT ON THE SERVICE, WHETHER BASED ON WARRANTY, CONTRACT, TORT (INCLUDING NEGLIGENCE), STATUTE, OR ANY OTHER LEGAL THEORY, AND WHETHER OR NOT ANY INNOVACER ENTITY HAS BEEN INFORMED OF THE POSSIBILITY OF DAMAGE.

EXCEPT AS PROVIDED IN SECTION 15.5 AND TO THE FULLEST EXTENT PERMITTED BY LAW, THE AGGREGATE LIABILITY OF THE INNOVACER ENTITIES TO YOU FOR ALL CLAIMS ARISING OUT OF OR RELATING TO THE USE OF OR ANY INABILITY TO USE ANY PORTION OF THE SERVICE OR OTHERWISE UNDER THESE TERMS, WHETHER IN CONTRACT, TORT, OR



OTHERWISE, IS LIMITED TO THE GREATER OF: (A) THE AMOUNT YOU HAVE PAID TO INNOVACER FOR ACCESS TO AND USE OF THE SERVICE IN THE 12 MONTHS PRIOR TO THE EVENT OR CIRCUMSTANCE GIVING RISE TO CLAIM; OR (B) \$100.

EACH PROVISION OF THESE TERMS THAT PROVIDES FOR A LIMITATION OF LIABILITY, DISCLAIMER OF WARRANTIES, OR EXCLUSION OF DAMAGES IS INTENDED TO AND DOES ALLOCATE THE RISKS BETWEEN THE PARTIES UNDER THESE TERMS. THIS ALLOCATION IS AN ESSENTIAL ELEMENT OF THE BASIS OF THE BARGAIN BETWEEN THE PARTIES. EACH OF THESE PROVISIONS IS SEVERABLE AND INDEPENDENT OF ALL OTHER PROVISIONS OF THESE TERMS. THE LIMITATIONS IN THIS SECTION 14 WILL APPLY EVEN IF ANY LIMITED REMEDY FAILS OF ITS ESSENTIAL PURPOSE.

## 15. **Dispute Resolution and Arbitration**

15.1 **Generally.** In the interest of resolving disputes between you and Innovaccer in the most expedient and cost effective manner, and except as described in Section 15.2 and 15.3, you and Innovaccer agree that every dispute arising in connection with these Terms will be resolved by binding arbitration.

Arbitration is less formal than a lawsuit in court. Arbitration uses a neutral arbitrator instead of a judge or jury, may allow for more limited discovery than in court, and can be subject to very limited review by courts. Arbitrators can award the same damages and relief that a court can award. This agreement to arbitrate disputes includes all claims arising out of or relating to any aspect of these Terms, whether based in contract, tort, statute, fraud, misrepresentation, or any other legal theory, and regardless of whether a claim arises during or after the termination of these Terms. YOU UNDERSTAND AND AGREE THAT, BY ENTERING INTO THESE TERMS, YOU AND INNOVACER ARE EACH WAIVING THE RIGHT TO A TRIAL BY JURY OR TO PARTICIPATE IN A CLASS ACTION.

15.2 **Exceptions.** Despite the provisions of Section 15.1, nothing in these Terms will be deemed to waive, preclude, or otherwise limit the right of either party to: (a) bring an individual action in small claims court; (b) pursue an enforcement action through the applicable federal, state, or local agency if that action is available; (c) seek injunctive relief in a court of law in aid of arbitration; or (d) to file suit in a court of law to address an intellectual property infringement claim.

15.3 **Opt-Out.** If you do not wish to resolve disputes by binding arbitration, you may opt out of the provisions of this Section 15 within 30 days after the date that you agree to these Terms by sending a letter to Innovaccer Inc., Attention: Legal Department – Arbitration Opt-Out, Suite 1829, Floor 18<sup>th</sup>, 535 Mission St, San Francisco, CA 94105 that specifies: your full legal name, and

a statement that you wish to opt out of arbitration (“**Opt-Out Notice**”). Once Innovaccer receives your Opt-Out Notice, this Section 15 will be void and any action arising out of these Terms will be resolved as set forth in Section 16.2. The remaining provisions of these Terms will not be affected by your Opt-Out Notice.

- 15.4 **Arbitrator.** Any arbitration between you and Innovaccer will be settled under the Federal Arbitration Act and administered by the American Arbitration Association (“**AAA**”) under its Consumer Arbitration Rules (collectively, “**AAA Rules**”) as modified by these Terms. The AAA Rules and filing forms are available online at [www.adr.org](http://www.adr.org), by calling the AAA at 1-800-778-7879, or by contacting Innovaccer. The arbitrator has exclusive authority to resolve any dispute relating to the interpretation, applicability, or enforceability of this binding arbitration agreement.
- 15.5 **Notice of Arbitration; Process.** A party who intends to seek arbitration must first send a written notice of the dispute to the other party by certified U.S. Mail or by Federal Express (signature required) or, only if that other party has not provided a current physical address, then by electronic mail (“**Notice of Arbitration**”). Innovaccer’s address for Notice is: Innovaccer Inc., 101 Mission Street, Suite 1950 San Francisco, CA 94105. The Notice of Arbitration must: (a) describe the nature and basis of the claim or dispute; and (b) set forth the specific relief sought (“**Demand**”). The parties will make good faith efforts to resolve the claim directly, but if the parties do not reach an agreement to do so within 30 days after the Notice of Arbitration is received, you or Innovaccer may commence an arbitration proceeding. All arbitration proceedings between the parties will be confidential unless otherwise agreed by the parties in writing. During the arbitration, the amount of any settlement offer made by you or Innovaccer must not be disclosed to the arbitrator until after the arbitrator makes a final decision and award, if any. If the arbitrator awards you an amount higher than the last written settlement amount offered by Innovaccer in settlement of the dispute prior to the award, Innovaccer will pay to you the higher of: (i) the amount awarded by the arbitrator; or (ii) \$10,000.
- 15.6 **Fees.** If you commence arbitration in accordance with these Terms, Innovaccer will reimburse you for your payment of the filing fee, unless your claim is for more than \$10,000, in which case the payment of any fees will be decided by the AAA Rules. Any arbitration hearing will take place at a location to be agreed upon in San Francisco County, California, but if the claim is for \$10,000 or less, you may choose whether the arbitration will be conducted: (a) solely on the basis of documents submitted to the arbitrator; (b) through a non-appearance based telephone hearing; or (c) by an in-person hearing as established by the AAA Rules in the county (or parish) of your billing address.

If the arbitrator finds that either the substance of your claim or the relief sought in the Demand is frivolous or brought for an improper purpose (as measured by the standards set forth in Federal Rule of Civil Procedure 11(b)), then the payment of all fees will be governed by the AAA Rules. In that case, you agree to reimburse Innovaccer for all monies previously disbursed by it that are otherwise your obligation to pay under the AAA Rules. Regardless of the manner in which the arbitration is conducted, the arbitrator must issue a reasoned written decision sufficient to explain the essential findings and conclusions on which the decision and award, if any, are based. The arbitrator may make rulings and resolve disputes as to the payment and reimbursement of fees or expenses at any time during the proceeding and upon request from either party made within 14 days of the arbitrator's ruling on the merits.

- 15.7 **No Class Actions.** YOU AND INNOVACCR AGREE THAT EACH MAY BRING CLAIMS AGAINST THE OTHER ONLY IN YOUR OR ITS INDIVIDUAL CAPACITY AND NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED CLASS OR REPRESENTATIVE PROCEEDING. Further, unless both you and Innovaccer agree otherwise, the arbitrator may not consolidate more than one person's claims, and may not otherwise preside over any form of a representative or class proceeding.
- 15.8 **Modifications to this Arbitration Provision.** If Innovaccer makes any future change to this arbitration provision, other than a change to Innovaccer's address for Notice of Arbitration, you may reject the change by sending us written notice within 30 days of the change to Innovaccer's address for Notice of Arbitration, in which case your account with Innovaccer will be immediately terminated and this arbitration provision, as in effect immediately prior to the changes you rejected will survive.
- 15.9 **Enforceability.** If Section 16.7 or the entirety of this Section 15 is found to be unenforceable, or if Innovaccer receives an Opt-Out Notice from you, then the entirety of this Section 16 will be null and void and, in that case, the exclusive jurisdiction and venue described in Section 16.2 will govern any action arising out of or related to these Terms.

## 16. Miscellaneous

- 16.1 **HIPAA.** To the extent applicable, the parties (i.e., you and us) agree to comply with the Health Information Technology for Economic and Clinical Health Act of 2009 (the "HITECH Act"), the Administrative Simplification provisions of Health Insurance Portability and Accountability Act of 1996, as codified at 42 U.S.C. Section 1320 d ("HIPAA") and any current and future regulations promulgated under either the HITECH Act or HIPAA, all as may be amended from time to time, (collectively referred to herein as "**HIPAA Requirements**").

The parties agree to enter into a separate Business Associate Agreement to the extent required by the HIPAA Requirements.

## 16.2 **Confidentiality and Non-disparagement**

You agree to maintain in confidence and safeguard (using the degree of care it uses to protect your sensitive information and in no event less than a reasonable degree of care) any information related to the Services (including features and functionalities thereof) and any business, personnel or technical information about Innovaccer and its affiliates, subsidiaries, contractors and other third parties (the "Information") that becomes known to you. Information does not include information within the public domain, i.e., information that is already freely available to any interested party. You shall not access or use Information other than as necessary to exercise its rights or perform its obligations under and in accordance with these Terms and shall only disclose Information on a strict 'need to know' basis. This obligation shall survive expiration or termination of your use of the Services.

You agree not to disparage or denigrate Innovaccer or the Services orally or in writing, and that neither you nor anyone acting on your behalf will publish, post, or otherwise release any material in written or electronic format, make speeches, gain interviews, or make public statements that mentions Innovaccer, its operations, clients, employees, products, or Services without the prior written consent of Innovaccer.

- 16.3 **General Terms.** These Terms, together with the Privacy Policy and any other agreements expressly incorporated by reference into these Terms, are the entire and exclusive understanding and agreement between you and Innovaccer regarding your use of the Service. You may not assign or transfer these Terms or your rights under these Terms, in whole or in part, by operation of law or otherwise, without our prior written consent. We may assign these Terms at any time without notice or consent. The failure to require performance of any provision will not affect our right to require performance at any other time after that, nor will a waiver by us of any breach or default of these Terms, or any provision of these Terms, be a waiver of any subsequent breach or default or a waiver of the provision itself. Use of section headers in these Terms is for convenience only and will not have any impact on the interpretation of any provision. Throughout these Terms the use of the word "including" means "including but not limited to". If any part of these Terms is held to be invalid or unenforceable, the unenforceable part will be given effect to the greatest extent possible, and the remaining parts will remain in full force and effect.

- 16.4 **Governing Law.** These Terms are governed by the laws of the State of California without regard to conflict of law principles. You and Innovaccer

submit to the personal and exclusive jurisdiction of the state courts and federal courts located within San Francisco County, California for resolution of any lawsuit or court proceeding permitted under these Terms.

- 16.5 **Privacy Policy.** Please read the Innovaccer [Privacy Policy](#) carefully for information relating to our collection, use, storage, disclosure of your personal information. The Innovaccer Privacy Policy is incorporated by this reference into, and made a part of, these Terms.
- 16.6 **Additional Terms.** Your use of the Service is subject to all additional terms, policies, rules, or guidelines applicable to the Service or certain features of the Service that we may post on or link to from the Service (the “**Additional Terms**”). All Additional Terms are incorporated by this reference into, and made a part of, these Terms.
- 16.7 **Consent to Electronic Communications.** By using the Service, you consent to receiving certain electronic communications from us as further described in our Privacy Policy. Please read our Privacy Policy to learn more about our electronic communications practices. You agree that any notices, agreements, disclosures, or other communications that we send to you electronically will satisfy any legal communication requirements, including that those communications be in writing.
- 16.8 **Contact Information.** The Service is offered by Innovaccer Inc., located at 101 Mission Street, Suite 1950 San Francisco, CA 94105. You may contact us by sending correspondence to that address or by emailing us at [support@innovaccer.com](mailto:support@innovaccer.com).
- 16.9 **Notice to California Residents.** If you are a California resident, under California Civil Code Section 1789.3, you may contact the Complaint Assistance Unit of the Division of Consumer Services of the California Department of Consumer Affairs in writing at 1625 N. Market Blvd., Suite S-202, Sacramento, California 95834, or by telephone at (800) 952-5210 in order to resolve a complaint regarding the Service or to receive further information regarding use of the Service.
- 16.10 **No Support.** We are under no obligation to provide support for the Service. In instances where we may offer support, the support will be subject to published policies.
- 16.11 **International Use.** The Service is intended for users located within the United States. We make no representation that the Service is appropriate or available for use outside of the United States. Access to the Service from countries or territories or by individuals where such access is illegal is prohibited.