

TERMS AND CONDITIONS OF USE – GOOGLE

1. Acceptance of Terms

Web Seo Media + Inc. (app.magendamd.com), a corporation organized under the laws of the State of New York and its Affiliates (the “Company”, “us”, or “we”), provides certain software for browsing, searching, data storage and delivering information, reports, billing, collections and other content and services (the “Service” or “Services”) to the user, as identified and indicated at the bottom of this agreement, (“You”, “Your” or “Customer”) through a software application, a Website and/or any other browsers or software platforms related to medical/healthcare billing, collection, data processing, and other related transactions and services that use or incorporate our software or Website (collectively, the “Application”), subject to Your compliance with these Terms and Conditions of Use - Google (“Terms”), as well as User Agreement/Terms and Conditions of Use – Users, and any other written agreement(s) between us and You.

We reserve the right to change these Terms and Conditions from time to time, with or without notice to You. You acknowledge and agree that it is Your responsibility to periodically review these Terms. Your continued use of the Application and Service after such modifications will constitute acknowledgement and acceptance of the modified Terms.

As used in these Terms, references to our “Affiliates” include our owners, licensees, assigns, subsidiaries, affiliated companies, officers, directors, suppliers, partners, sponsors, and includes (without limitation) all parties involved in creating, producing, and/or delivering the Service and/or contents available through the Application.

BY USING THE APPLICATION AND THE SERVICE, YOU AGREE TO BE BOUND BY THESE TERMS. IF YOU DO NOT WISH TO BE BOUND BY THE THESE TERMS, PLEASE EXIT THE APPLICATION. YOUR SOLE REMEDY FOR DISSATISFACTION WITH THIS APPLICATION, PRODUCTS, OR SERVICE, OR THESE TERMS IS TO CEASE USING THE APPLICATION AND/OR THOSE PARTICULAR PRODUCTS, OR SERVICE. THESE TERMS ARE EFFECTIVE ONCE YOU CHECK THE 'I AGREE' BOX AT THE BOTTOM OF THIS AGREEMENT AND/OR IF YOU CONTINUE TO USE THIS APPLICATION AND THE SERVICE AFTER VIEWING THESE TERMS AND CONDITIONS.

2. Services, Licenses

2.1. **Limited License from Company.** Subject to these Terms, the Company hereby grants to You a personal, nontransferable, and nonexclusive license to install (if installation of any software or plug-in is required) and use the Application in the Territory using Your smart phone, mobile device, server, desktop, laptop or laptop computer for the own (i.e., your or your company) use only, and not to offer or use the Services or Application for any business purposes for other third parties without first obtaining an express permission from us for such use. The “Territory” includes and is limited to the geographic territory of the United States of America. No other geographic area is covered by this license.

2.2. **License Fees.** License fees will be set up and paid pursuant to a separate agreement with each user, User Agreement/Terms and Conditions of Use - User, which is incorporated herein.

2.3. **User Equipment.** You are solely responsible for providing, at Your own expense, all equipment necessary to use the services, including a smart phone or other mobile device, a desktop or laptop computer, and Your own Internet access (including payment of service fees associated with such access).

2.4. **Access Outside the Territory.** Although this Application may be accessible outside the Territory, we make no representation that materials on this Application are appropriate or available for use in locations outside the Territory. Those who choose to access this Application from other locations do so on their own initiative and at their own risk. If You choose to access this Application from outside the Territory, You are responsible for compliance with local laws in Your jurisdiction, including but not limited to, the taxation of products purchased over the Internet. Any offer for any product, Service, and/or information made in connection with this Application is void where prohibited.

2.5. **Company and User Content.**

2.5.1. **Definitions.** For purposes of these Terms, “Company Content” is defined as any software, data, information, website, communications, photos, video, graphics, music, sounds, or other material that can be viewed by users on our Application and is owned by Company or its Affiliates. Company Content does not include the data, information, software, photographs, videos, or other personal information or content that the user uploads or stores on the company server or makes available to the Application on or through the user’s own computer device (“User Content”).

2.5.2. **Acknowledgement of Ownership of Company Content.** By accepting these Terms, You agree that all Company Content presented to You on this Application is protected by any and all intellectual property and/or other proprietary rights available within the United States, and is the sole property of Company or its Affiliates. All custom graphics, icons, logos and service names are registered trademarks, trademarks or service marks of Company or its Affiliates. All other trademarks or service marks are property of their respective owners. Nothing in these Terms grants You any right to use any trademark, service mark, logo, and/or the name of Company or its Affiliates. Certain ideas, software, and processes incorporated into the Service available on this Application may be protected by patent applications, or protected as trade secrets or proprietary information of the Company.

2.5.3. **Acknowledgement of Ownership of User Content.** Company acknowledges that User Content is owned or licensed by the user from the third parties, or otherwise open or available for public use, and is not owned by the Company.

2.5.4. **Use of Company Content.** Except for a copy made for personal use, or a temporary copy that is made as part of the operation, You may not copy, reproduce, modify, republish, upload, post, transmit, or distribute, either directly or through any third party, any Company Content, or reverse engineer any Company Content (including Web pages, applets, etc.) from this Application in any form or by any means whatsoever without prior written permission from us. Any unauthorized use, copying, transmission or access to Application violates our intellectual

property interests and could result in legal action, in addition to the immediate termination of services.

2.5.5. **Use of User Content.** Company shall not own, obtain ownership rights to or use the User Content, beyond the license granted herein. You hereby grant the Company a limited license to make copies, reproduce and store the User Content on the server(s) used or operated by or for the Company, make copies for the backup, and make temporary copies for the uploading, downloading and sharing of the User Content as part of the operation and use of the Application by the user and user authorized persons, who may be allowed by the user to access, view, copy, share or distribute and/or make copies of the User Content.

2.6. **Support.** We offer to provide support for the software offered through our Application and Services pursuant to a separate Support Agreement, which may be entered into by the parties. If there are any problems encountered by you with the Application or Services, you shall inform us about such problems, and provide sufficient or requested information in order to resolve the problem in a reasonable time.

3. **Privacy and Security**

3.1. **Login Required.** In order to access the Service on this Application, You may be asked to set up an account and password or use Your social media platform username and password. Our account registration page may request certain personal information from You (“**Registration Information**”). You will have the ability to maintain and periodically update Your Registration Information as You see fit. By registering, You agree that all information provided by You as Registration Information is true and accurate and that You will maintain and update this information as required in order to keep it current, complete, and accurate.

3.2. **Passwords and Security.** You agree that You are responsible for maintaining the security and confidentiality of Your password, and that You are fully responsible for all activities that are carried on under Your account. Therefore, You must take reasonable steps to ensure that others do not gain unauthorized access to Your password and account. If you authorize any other person or persons to have access to Your account, you agree to assume all the risks that may be associated with the unauthorized use or access being given to your account by the persons to whom you grant or permit access. You agree that the Company shall not be responsible for such unauthorized access.

4. **Services, Acknowledgements and Requirements.**

4.1. **Services.** The Company shall provide services described in the Application and subject to subscription by You to each provided services and Application.

4.2. **Acknowledgments.** You expressly acknowledge that the Company is neither a licensed health care provider nor an underwriter of health benefits. You also agree and acknowledge that the Company cannot and does not guarantee payment for any professional service performed by You for others. In addition, it is acknowledged that the Company will not maintain and be responsible for the loss, damage or destruction of any original medical records.

4.3. **Required Disclosures.** You shall provide a listing of all facilities and/or office locations that are in current operation. Said listing shall include the names, locations, and tax identification numbers of such facilities and all health care provider identification numbers for any and all individuals providing professional services of any kind on Your behalf at said locations. If You shall terminate operations at any facilities, they must provide the Company with written notice of the termination date at least thirty (30) days prior to termination date.

4.4. **Requirements for Billing, Collection and Other Services.**

The requirements are set forth in a separate User Agreement/Terms and Conditions of Use - User, which is incorporated by reference herein.

5. **Confidential Information and HIPPA Requirements**

5.1. **HIPAA.** As a part of the Agreement, and in compliance with the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”), as well as the regulations promulgated thereafter, this Agreement stipulates the permitted uses of confidential health information the Company.

5.2. **Confidential Information.** “Confidential Information” means any data or information, irrespective of whether it is generally known to the public, whether in tangible or intangible form, whenever and however disclosed, including, but not limited to: information concerning the other party's patients, business strategies, marketing methods and plans, financial data, marketing, production, distribution, import and/or export strategies, plans, financial and business information, projections, operations, estimates, past, present or future business activities, contacts with manufacturers, distributors, exporters and/or importers, regulators, patients, providers of services, monetization techniques, market analysis, global strategy, pricing, revenue streams and projections, profit margins, investors and capital requirements, strategic partnerships, revenue structures, timelines and milestones, plans for products or services, product details, customer, supplier or manufacturer lists, brand name, product development, placement and/or sale, scientific or technical information, invention, design, process, procedure, formula, improvement, technology or methods; concepts, ideas, reports, data, know-how, plans, proprietary lists, designs, development tools, specifications, computer software, source code, object code, flow charts, manuals, databases, inventions, information and trade secrets; and any other information disclosed or submitted, orally, in writing, or by any other media, that is identified as confidential in nature or should reasonably be recognized as confidential information of the other party.

5.3. **Protection of Confidential Information.** Each party that receives (“Receiving Party” or “Recipient”) Confidential Information of the other party (“Disclosing Party”) agrees to use reasonable due diligence and best efforts to protect from disclosure of the received Confidential Information. Receiving Party shall not disclose, publish or otherwise reveal or use any of the Confidential Information of other party, or use it internally, for any other purposes than expressly permitted use or for the purposes contemplated by this Agreement. Recipient agrees not to use any Confidential Information as a basis upon which to develop or have a third party develop a competing

or similar product or service.

5.4. **Exceptions.** The foregoing obligations and restrictions do not apply to that part of the Confidential Information that Recipient demonstrates through credible evidence:

(i) was available or became generally available to the public other than as a result of an unauthorized disclosure or a wrongful act of Recipient in breach of this Agreement;

(ii) was independently developed by, or became available to Recipient on a non-confidential basis prior to its disclosure to Recipient by the Disclosing Party or its representative, but only if such information was not made available through a breach of confidentiality owed to the Disclosing Party;

(iii) to the extent necessary to fulfill the intent contemplated by this Agreement;

(iv) per applicable regulations or regulatory authorities including by way of example and without limitation the Securities Exchange Commission and/or Internal Revenue Service.

(v) was requested or legally compelled to be produced or disclosed by law, a regulatory agency, or judicial body, provided, that Recipient shall: (A) provide the Disclosing Party with prompt notice of any such request(s) so that the Disclosing Party may seek an appropriate protective order or other appropriate remedy, and (B) provide reasonable assistance to Disclosing Party in obtaining any such protective order.

If any subpoena, order or discovery request is received by the Receiving Party, calling for the production of the Confidential Information of the Disclosing Party, the Disclosing Party shall promptly notify the other Parties hereto prior to any disclosure of same. In such case, the subpoenaed Recipient shall: (i) make available as soon as practicable (and in any event prior to disclosure), for inspection and copying, copies of all documents which it intends to produce pursuant to the subpoena unless such disclosure is otherwise prohibited by law; and (ii) and, to the extent possible, shall not produce anything in response to such request for at least ten (10) business days following such notice.

5.5. **Survival/Term.** Recipient's obligations with respect to Confidential Information shall survive and remain force after the completion or termination of this Agreement or any related agreements between parties, irrespective of the reason(s) for termination, until the later of (i) when such information falls under one of the exclusions in Section 3(c), (ii) when the disclosure is authorized by Owner, or (iii) when it is no longer treated as confidential and proprietary by the Owner.

5.6. **PHI.** Because the Company may receive individually identifiable protected patient's health information ("PHI") from You, the Company shall at all times maintain the security and confidentiality of all PHI in compliance with HIPAA, and other applicable laws. Company shall not use or further disclose PHI other than as expressly permitted by this Agreement or as allowed by law. However, the Company may use and disclose PHI for the proper management and administration of Application and Services, or to provide data aggregation services relating to You or your data stored or provided to the Company or used with the Application or Services.

5.7. **Disclosure of PHI.**

5.7.1. **Disclosure to Third-Parties.** The Company shall not disclose PHI to any other person (other than members of its workforce) unless approved by You in writing. Any disclosure of PHI to a sub-contractor shall be made only upon the written agreement of the sub-contractor to be bound by the confidentiality provisions of this section and the requirements of HIPAA, for express benefit of You and the Company.

5.7.2. **Disclosure to Workforce.** The Company shall not disclose PHI to any member of its workforce unless the Company has advised such person(s) of the contractual and statutory confidentiality obligations under this Section and under HIPAA and of the consequences for such person's violation of them.

5.7.3. **Disclosure to Independent Contractors.** If the Company provides PHI to an independent contractor to support the Application and/or Services provided to You under this Agreement, the independent contractor shall be bound by the same obligation to You and to the company as provided in this Section, and shall provide documentation in writing evidencing its agreement to and its understanding of its obligations under the terms hereof, and shall provide documentation of its internal plan to insure implementation of its security and confidentiality protocol with respect to such PHI.

5.8. **Safeguards.** The Company shall use appropriate safeguards to prevent use or disclosure of PHI otherwise than as permitted by this Agreement. The Company shall maintain a record of all disclosures of PHI made otherwise than for the purposes of this agreement, including date of the disclosure, the name, and, if known, the address of the recipient of the PHI, a brief description of the PHI disclosed, and the purpose of the disclosure. The company shall report to You any unauthorized use or disclosure of PHI related to You or your data by the Company, its workforce, or its contractors, and the remedial action taken or proposed to be taken with respect to such use or disclosure.

5.9. **Disclosure to DHHS.** If required by law or regulation, the Company shall make its internal practices, books, and records relating to the use and disclosure of health information received from You available to the United States Department of Health and Human Services ("**DHHS**") for purposes of determining or otherwise gauging Your compliance with HIPAA.

5.10. **Procedure Related to PHI Upon Termination.** Upon termination of this Agreement, the terms and conditions of this shall continue to extend the protections of this Agreement to such PHI and limit further use of the PHI to those purposes that make the return or destruction of the PHI infeasible.

5.11. **Non-Compete and Non-Circumvent Obligations**

Recipient shall not develop, make, or market any products or services, or carry on or engage, directly or indirectly, in any business or similar venture, that may be in competition with that of Disclosing Party during the term of this Agreement and for a term of three (3) years after termination or expiration of this Agreement. Both parties agree that they, either directly or indirectly, through

their affiliates, subsidiaries, partners, agents, subcontractors shall not circumvent, avoid, bypass, or obviate the terms and conditions of this Agreement, including contacting or entering into an agreement directly with any third party that has been introduced or brought into business transactions pursuant to this Agreement by the other party or using Confidential Information of Disclosing Party.

Nothing in this Agreement shall be construed as limiting the ability of the Company to offer its Application, or offer use or access to the Service provided through this Application to any third party that may be a competitor of or intend to compete with You.

6. **Disclaimers and Warranties**

6.1. **No Warranty.** ALL CONTENT AND OFFERINGS ON THIS APPLICATION ARE PROVIDED ON AN “AS IS” AND “AS AVAILABLE” BASIS WITHOUT WARRANTY OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, OR THE WARRANTY OF NON-INFRINGEMENT. WITHOUT LIMITING THE FOREGOING, WE MAKE NO WARRANTY THAT (A) THE CONTENT OR SERVICE WILL MEET YOUR REQUIREMENTS, (B) THE CONTENT, SERVICE, OR APPLICATION WILL BE UNINTERRUPTED, TIMELY, SECURE, ERROR-FREE, FREE FROM MALICIOUS SOFTWARE OR UNAUTHORIZED ACCESS AND OTHER UNAUTHORIZED ACTIONS OF THE THIRD PARTIES; (C) THE RESULTS THAT MAY BE OBTAINED FROM THE USE OF THE CONTENT OR SERVICE WILL BE EFFECTIVE, ACCURATE, OR RELIABLE, OR (D) THE QUALITY OF ANY CONTENT OR SERVICE OBTAINED BY YOU THROUGH THE APPLICATION FROM US OR OUR AFFILIATES WILL MEET YOUR EXPECTATIONS OR BE FREE FROM MISTAKES, ERRORS, OR DEFECTS. THIS APPLICATION COULD INCLUDE TECHNICAL OR OTHER MISTAKES, INACCURACIES, OR TYPOGRAPHICAL ERRORS. WE MAY MAKE CHANGES TO THE CONTENT AND SERVICE AT ANY TIME WITHOUT NOTICE.

6.2. **No Warranty About Third Party Rights or Malicious Software .** Neither we or our Affiliates warrant or represent that Your use of materials displayed on, or obtained through this Application will not infringe the rights of third parties, or that the software used in Application is free of any malicious software of others; however, we fully guarantee that we will not place any malicious software or disabling software on Your device.

6.3. **Transactions with Third Parties.** Through Your use of the Application, You may have the opportunities to engage in commercial transactions with other users and vendors. You acknowledge that all transactions relating to any products or offerings provided by any third party, including, but not limited to the purchase terms, payment terms, warranties, guarantees relating to such transactions, are agreed to solely between the seller of such merchandise and You. We make no warranty regarding any transactions executed through a third party, or in connection with this Application, and You understand and agree that such transactions are conducted entirely at Your own risk. Any warranty that is provided in connection with any offerings or content available on or through the Application from a third party is provided solely by such third party, and not by us or any other of our affiliates. Further, we shall not be liable in any way for third party promises or

representations regarding our Service or Content or for assistance in conducting commercial transactions with the third party through this Application, including without limitation the processing of orders.

6.4. **Use of Application on Device.** The use of the Service or the downloading or other acquisition of any products or Content through this Application is done at Your own discretion and risk and with Your agreement that You will be solely responsible for any damage to Your smart phone or mobile device, or loss of data that results from such activities.

6.5. **Warranty That User Content Does Not Violate Third Party Rights or Laws.** You hereby warrant that any User Content that you have placed, uploaded or made available to anyone through the Application, and any of your actions that you take using Application, do not violate the third party's rights, including without limitation any copyright, trademark, trade secret, property, privacy right or any other personal or proprietary right or interest, and do not violate any applicable federal, state, local or ethical laws, rules or regulations of the applicable jurisdiction or organization that may govern or be applicable to the User Content and your activities using Application. You further warrant that the User Content and your activities using Application do not violate any agreement or contractual obligation with any other third party.

6.6. **No Guarantee of Results or Uninterrupted Functionality.** Although Company works hard to provide high quality Service, You understand and acknowledge that we cannot promise or guarantee specific results from using the Application or Service available on the Application. You understand and agree that temporary interruptions of the Service may occur as normal events that are out of our control. You also understand and agree that we have no control over the third-party networks or service(s) that we may use to provide You with the Service, and that we are not responsible for any malicious software or unauthorized access or other actions of the third parties. You agree that the Service available on this Application is provided "AS IS" and that we assume no responsibility for the timeliness, deletion, non-delivery, misdelivery or failure to store any user data, communications or personalization settings or User Content (as defined below).

7. **Indemnification and Limitations on Damages**

7.1. **Limitation on Damages.** In no event shall we or our Affiliates, officers or management be liable to You or any third party for any special, punitive, incidental, indirect or consequential damages of any kind, or any damages whatsoever, including, without limitation, those resulting from loss of use, data or profit loss, whether or not we have been advised of the possibility of such damages, and on any theory of liability, arising out of or in connection with the use of the Application or of any website referenced or linked to from the Application. **In any event, neither party shall be entitled to any damages that exceed the cost of services for either the full year or the actual amount paid in the course of the prior year.**

7.2. **Applicability.** Some jurisdictions prohibit the exclusion or limitation of liability for consequential or incidental damages, so the above limitations may not apply to You. Please consult the laws in Your jurisdiction.

7.3. **Indemnification.** YOU AGREE TO DEFEND, INDEMNIFY AND HOLD COMPANY AND ITS AFFILIATES, MANAGEMENT AND OFFICERS HARMLESS FROM AND AGAINST ANY AND ALL CLAIMS, DEMANDS, SUITS, PROCEEDINGS, LIABILITIES, JUDGMENTS, LOSSES, DAMAGES, EXPENSES AND COSTS (INCLUDING WITHOUT LIMITATION REASONABLE ATTORNEYS' FEES) ASSESSED OR INCURRED BY COMPANY, DIRECTLY OR INDIRECTLY, WITH RESPECT TO OR ARISING OUT OF: (I) YOUR FAILURE TO COMPLY WITH THESE TERMS; (II) YOUR BREACH OF YOUR OBLIGATIONS UNDER THESE TERMS; (III) YOUR USE OF THE RIGHTS GRANTED HEREUNDER, INCLUDING WITHOUT LIMITATION ANY CLAIMS MADE BY ANY THIRD PARTIES; AND/OR (IV) YOUR VIOLATION OF ANY THIRD PARTY RIGHT, INCLUDING WITHOUT LIMITATION ANY COPYRIGHT, TRADEMARK, TRADE SECRET, PROPERTY, PRIVACY RIGHT OR ANY OTHER PERSONAL OR PROPRIETARY RIGHT OR INTEREST. AND VIOLATION OF ANY LAW OR REGULATION OF THE APPLICABLE JURISDICTION THAT MAY GOVERN OR BE APPLICABLE TO THE USER CONTENT.

8. **Term and Termination**

8.1. **Term.** The initial term of this Agreement shall commence on the Effective Date, and shall be renewed automatically for successive one (1) year terms unless either party gives written notice to the other party of its intention to terminate this Agreement no later than ninety (90) days prior to the expiration of the then current term (the "Termination Period"). After the expiration of the Termination Period, the Company will have an additional ninety (90) days to collect on any outstanding claims or patient balances relating to claims submitted by the Company on Your behalf of during the Termination Period. Final reports will be mailed certified only after final payment has been received and shall only include primary insurance, secondary insurance, tertiary insurance and patient remainder aging reports. Any additional reports, including custom reports, will be subject to a rate or fee agreed upon by both parties upon request of service.

8.2. **Breach and Cure Period.** If either party breaches its obligations under this section, the other party may terminate this Agreement without penalty following the discovery of any breach, after providing a written notice of said breach, and when the noticed breach is not cured, within the thirty (30) day period following discovery of such breach. However, if a breach cannot be cured within 30-days upon proof that the other party is proceeding in good faith to cure the breach, the time to cure is extended for reasonable time.

8.3. **Grounds for Immediate Termination.** You agree that we may, upon a written notice, terminate or suspend Your access to all or part of the Service and Application "for cause", including, without limitation, breach of these Term. Moreover, any suspected fraudulent, abusive, or illegal activity may be grounds for immediate barring Your access to this Application, without prior notice, and reporting You to the proper authorities, if necessary. Upon termination and regardless of the reason(s) motivating such termination, Your right to use the Service available on this Application will immediately cease. We shall not be liable to You or any third party for any claims for damages arising out of any termination or suspension or any other actions taken by us in connection therewith. For purposes of this Section, "for cause" shall include the following events or occurrences: if either party is determined to have, by any governmental agency, either civilly or criminally, violated any rule or regulation pertaining to the Medicare or Medicaid programs; any substantial or repeated

failure by one party to perform or otherwise adhere to the terms of this Agreement through no fault of the terminating party; assignment of this Agreement or the responsibilities articulated hereunder by either Party to any other entity without the prior written consent of the other Party; the filing of a petition in bankruptcy by or against either Party if not removed within (60) sixty days; and any conduct on the part of one Party having a reasonable prospect of materially damaging reputation or integrity of the terminating Party.

8.4. **Right to Modify Application and Services.** WE RESERVE THE SOLE RIGHT TO EITHER MODIFY THE APPLICATION, INCLUDING ANY SERVICE OR FEATURES THEREIN, AT ANY TIME WITH OR WITHOUT NOTICE TO YOU. WE SHALL NOT BE LIABLE TO YOU OR ANY THIRD PARTY SHOULD WE EXERCISE SUCH RIGHT. MODIFICATIONS MAY INCLUDE, BUT ARE NOT LIMITED TO, THE ADDITION OF FREE OR FEE-BASED SERVICES, OR CHANGES TO LIMITATIONS ON ALLOWABLE CONTENT. ANY NEW FEATURES THAT AUGMENT OR ENHANCE THE THEN-CURRENT SERVICE OR CONTENT ON THIS APPLICATION SHALL ALSO BE SUBJECT TO THESE TERMS OF USE.

9. **Force Majeure**

9.1. **Force Majeure.** In addition to any excuse provided by applicable law, we shall be excused from liability for non-delivery or delay in delivery of products or Service available through our Application arising from any event beyond our reasonable control, whether or not foreseeable by either party, including but not limited to: labor disturbance, war, fire, epidemic, accident, computer viruses or malware, Internet operational disturbances, adverse weather, inability to secure transportation, governmental act or regulation, and other causes or events beyond our reasonable control, whether or not similar to those which are enumerated above.

9.2. **Exclusive Remedy for Delays and Termination Caused by Force Majeure.** The Company agrees to make reasonable and commercially practicable efforts to restore operations and/or backup the data for use of the Application within reasonable time after any Force Majeure occurrence. In the event that restoring such operation by the Company is not possible or commercially feasible, then the only available remedy shall be termination of services and pro rata refund of any fees associated with the Company Services for the remainder of the term. Upon issuance of such refund, the Company shall be excused from any further operations and you shall not assert any claims based on the terminated services or damages related to the Force Majeure events, termination of services or delays caused by such events.

10. **Dispute Resolution**

10.1. **Governing Law and Arbitration.** This Agreement shall be governed and construed in accordance with the laws of the United States and the state of New York without reference to conflict of laws principles. Both parties agree that any controversy or claim between the parties based on this Agreement shall, on a written request of either party, be served by registered mail on the other party (at its last known business or residential address). The proceedings under this Agreement shall be brought exclusively before the American Arbitration Association for Commercial Disputes, and shall be limited to not more than three (3) days of proceedings, unless the parties stipulate otherwise. The

attorneys' fees and costs of arbitration shall be borne by the losing party, or in such proportions, as the arbitrator shall decide. Both parties agree to abide by the procedural, interim and final decisions of the arbitrator(s) and agree not to challenge the arbitration decisions, or enforcement of arbitration decisions in any court of another jurisdiction.

10.2. **Remedies.** The Parties acknowledge that monetary damages may not be a sufficient remedy for unauthorized use of the Application or Software and that aggrieved party may be entitled, without waiving any other rights or remedies, to seek such injunctive or equitable relief as may be deemed proper by a court of competent jurisdiction. Such injunctive relief shall be in addition to any other remedies available hereunder, whether at law or in equity.

11. **General Provisions**

11.1. **Independent Contractors.** Parties agree that their relationship is that of independent contractors, and that no employment, partnership or agency relationship is formed or contemplated by this Agreement. Neither Party has any authority to act as an agent for or to bind the other Party to this Agreement in any other way, nor shall make any contrary representations to any third party.

11.2. **No Resale Right.** You agree not to sell, resell, reproduce, duplicate, distribute, copy or use for any commercial purposes any portion of this Application, or use of or access to the Service provided through this Application, beyond the limited rights granted to You under these Terms.

11.3. **No Reverse Engineering.** You agree that you will not, for yourself or on behalf of any other person or entity, in any way, use or reverse-engineer the Application or Services offered by us, to compete with the business, products or services of the Company now or for a period of **two (2) years** after termination of your use of our Application or Services.

11.4. **No Assignment.** This Agreement shall not be transferred or assigned by either party without the prior written consent of the other party, which shall not be unreasonably withheld. Either Party may assign its rights and delegate its duties hereunder (1) to any entity that it controls, is controlled by, or with which it is under common control, (2) upon corporate re-organization, or (3) upon sale of substantially all assets.

11.5. **Savings Clause.** If any part of these Terms is held invalid or unenforceable, that portion shall be construed in a manner consistent with applicable law to reflect, as nearly as possible, the original intentions of the parties, and the remaining portions shall remain in full force and effect.

11.6. **No Waiver.** Any failure by us to enforce or exercise any provision of these Terms or related rights shall not constitute a waiver of that right or provision.

11.7. **Entire Agreement.** These terms and conditions constitute the entire agreement and understanding between the parties concerning the subject matter hereof and supersedes all prior agreements and understandings of the parties with respect thereto. These Terms may not be altered, supplemented, or amended by the use of any other document(s). To the extent that anything in or associated with the Application is in conflict or inconsistent with these Terms, these Terms shall take precedence.

11.8. **Notices.** You may direct any questions, complaints, or claims with respect to the Application or Services to:

Email: magendamd@gmail.com

11.9. **No Third Party Rights.** This Agreement does not create any rights in any third parties, except assigns, successors, heirs or as otherwise expressly permitted herein.