

# Nemaris, Inc. Services Agreement (formerly "User Agreement")

Last updated: May 2018

PLEASE READ THIS AGREEMENT CAREFULLY, AS THIS SERVICES AGREEMENT CONSTITUTES A BINDING CONTRACT.

This Services Agreement (the "Agreement") describes the terms and conditions applicable to your access and use of any products or services ("Services") offered by Nemaris, Inc. ("Nemaris"). Nemaris may amend this Agreement at any time by posting the amended Agreement on its website and/or providing you with notice via email or other reasonable and commonly accepted modes of delivery. Users are deemed to have been apprised of and bound by any changes to this Agreement once such notice has been provided. Any use of Services after such notice shall be further evidence of your acceptance of such changes. Nemaris may make changes to the Agreement at any time. You understand that Nemaris may discontinue or restrict use of Services for any reason. This Agreement is effective the earlier of either the date upon which you use Services or the date upon which you click the associated "I accept" button (i.e., the "Effective Date").

1. Definitions. As applicable to this Agreement:

"Content" includes all the images, recordings, information, data, documents, software, material, text products and services that are offered or made available to User while using the Service.

"Customer Data" includes any and all images, data, documents, information and material that is made available or submitted by User while using the Service.

"Intellectual Property" includes any and all inventions (whether patentable or not), patent applications, patents, design rights, registered or unregistered copyrights, registered or unregistered trademarks, copyright or trademark applications, service marks, trade names, domain name rights, mask work rights, proprietary procedures, know-how and other trade secret rights, and all other intellectual property, as well as any and all derivatives, modifications, enhancements and updates thereof.

"Medical Consultation" includes providing another physician or organization with professional medical information or opinions in connection with a

professional relationship upon which the consulting physician or organization may rely in providing Professional Services to patients or health organizations. "Nemaris know-how" ("know-how") includes without limitation all of Nemaris' proprietary information, know-how, and technology (including image acquisition and processing methods, software, processes, hardware, products, algorithms, user interfaces, know-how, techniques, designs and other tangible or intangible technical or information-related material or information) provided or made known by Nemaris in providing the Service. To avoid doubt, Nemaris shall at all times have, to the extent possible, own and retain Intellectual Property Rights in and to any and all Nemaris know-how.

"Participant" includes any Service-using individual, corporation, organization or entity, including without limitation any User and/or medical professional who offers, provides, posts, or utilizes any information using the Service.

"Personally identifiable information" includes (but is not limited to) any information that can be linked to or associated with any particular individual, corporation, organization or entity, including without limitation any name, address, phone number, e-mail address, or date of birth.

"Practice of Medicine" includes presenting one's self to the public as being trained and qualified to analyze, diagnose, treat, prescribe for, palliate, or prevent any human accidental or natural deformity, disease, ailment, pain, injury, or physical or mental condition, whether by the use of exercise, surgical manipulation, drugs, electricity, or any physical, mechanical, psychological, or other means.

"Protected Health Information" ("PHI") includes any and all information that may identify a particular person and that relates to the person's past, present, or future physical or mental health or condition and that is related to health care services.

"Professional Services" includes professional information, services or support provided to any public or private corporation, organization, group, entity, or any other individual or member of the public in actual or assumed professional capacity or under the auspices of being performed by a member of a profession within a specific field, including without limitation the Practice of Medicine.

"Service" includes any of Nemaris' products or services, including without limitation Nemaris' storage medium based or internet online services for medical image acquisition and processing, information retrieval or exchange, analysis,

support, or other services invented, developed, instituted, operated and/or maintained by Nemaris.

"User" includes any party registering for Services upon execution and compliance with the terms and conditions of this Agreement. To avoid doubt, execution and compliance with the terms and conditions of this Agreement is a condition that must be fulfilled prior to any use of the Service. Any use or attempted use of the Services without execution of the Agreement, and/or without full compliance with the terms and conditions of this Agreement, shall constitute unauthorized use and access to the Services.

## 2. Use of Nemaris Service Modules.

2.1 *No Medical Analysis, Diagnoses or Proposal for Procedures by Nemaris.* User fully understands and agrees that the Services provided hereunder, including without limitation all information obtained from the use of Services, are to be used strictly in accordance with this Agreement and solely for the benefit of the User in its performance of medical research, training, Professional Services, and/or the Practice of Medicine. Nemaris and its Services are neither able to nor designed to provide by themselves any valid medical diagnosis, plans for treatment, medical research, training, Professional Services and/or Practice of Medicine. User shall at all times remain fully responsible for providing any and all necessary analysis, diagnosis, consultation, treatment, planning, medical research, training and care with respect to any Medical Consultation, Professional Services and/or Practice of Medicine rendered, and Nemaris expressly disclaims any such involvement by virtue of its provision of the Services or otherwise. Suggestions, information or opinions expressed by linkage to other professionals or organizations on the Service are those of the respective authors only, not those of Nemaris or any of its affiliates, officers, directors, employees, agents, licensors and/or suppliers, and Nemaris expressly disclaims any and all responsibility with respect to any such suggestions, information and/or opinions. When using Services for research, User is responsible for obtaining all appropriate permissions beforehand (e.g., from an IRB or hospital), and Nemaris expressly disclaims any and all responsibility for verification of those permissions.

2.2 *No Practice of Medicine by Nemaris.* User fully understands and agrees that using the Service does not constitute and may not be relied upon as Medical Consultation, the Practice of Medicine, or Professional Services. User hereby represents and warrants that any possible compensation, or any other form of consideration or tender exchanged between Participants related to the use of the

Service shall be expressly and clearly unrelated to any charges, consideration or tender between Nemaris and User arising from, related to, or in connection with any use of the Service pursuant to the Agreement.

*2.3 No Patient/Physician Relationship.* Receiving or using any information facilitated by the Service, or otherwise participating or benefiting from the Service, shall not create a patient/physician relationship between User and/or Nemaris with any other Participant or third party. Nemaris specifically and expressly disclaims any such relationships.

*2.4 No Standards of Care Created.* User consents and recognizes that information obtained or provided by Nemaris cannot be construed as establishing or stating standards of care applicable to the Practice of Medicine, Professional Services, Medical Consultation, or to any third party. User and Participants realize that they have a personal and independent duty to analyze, professionally examine, diagnose, and plan treatment, and that they cannot base medical decisions, or any Practice of Medicine, Professional Services or Medical Consultation upon suggestions, information, or opinions provided by or obtained through the Service. Participants shall not expressly or impliedly, knowingly or unknowingly, represent that information provided by Participants or Nemaris, including without limitation, advice or information obtained or obtainable through the Service, constitutes or may be the basis of any Medical Consultation, Professional Services, Practice of Medicine or prescription as to particular medical standards of care for any patient.

*2.5 No Responsibility for Use of Medical Devices.* Nemaris is not responsible for the functioning or usage of medical implants or devices described or discussed in the Services, including "off-label" usage. Only the User and Participants themselves are responsible for providing Professional Services, Medical Consultation, or Practice of Medicine with respect to the use of specific medical implants or devices.

*2.6 Professional Liability Insurance.* Any User who purports to be engaged in the Practice of Medicine and/or provides any Medical Consultation, hereby represents and warrants that he/she is a Board Certified or Board Eligible physician, or maintains equivalent status (as closely as possible) based on the laws and regulations of the foreign jurisdiction in which such User resides and practices. Each and every such User agrees and covenants that he/she has and will maintain in place at all times professional liability insurance, acceptable to Nemaris in form, substance and amount, of at least the amount of \$1,000,000 (i.e., U.S. dollars) in coverage per occurrence, or equivalent coverage--as closely

as possible--based on the currency and insurance coverage available in the foreign jurisdiction in which such User resides and practices. Each participating medical professional shall immediately cease the use of any Services if his or her professional certification, eligibility or liability coverage is interrupted, reduced, modified, altered, suspended, terminated or if it expires for any reason, and notify Nemaris immediately in any such case.

3. Licenses & Restrictions. User acknowledges and agrees that, as between the parties, Nemaris owns all right, title, and interest in and to the Service, including all Intellectual Property therein. Nemaris hereby grants to the properly registered User, a non-exclusive, non-transferable, non-sublicensable, fully-revocable right to access and use the Service by the means provided by Nemaris, for User's use strictly in accordance with this Agreement and solely for the benefit of the User in its performance of medical research, training, Professional Services and/or the Practice of Medicine. All rights not expressly granted to User are reserved by Nemaris and its licensors. Specifically, without the express written permission of Nemaris, User shall not (i) in any way license, sublicense, sell, resell, transfer, assign, distribute or otherwise professionally or commercially exploit or make available to any third party the Service in any way; (ii) modify, change, or make derivative works based upon the Service; (iii) reverse engineer or access the Service in order to (a) build a competitive product or service, (b) build a service or product using similar features, tools, functions, processes, or graphics of the Service, or (c) copy any features, functions, tools, images, or graphics of the Service.
4. Privacy & Security. Users may be asked to submit personally identifiable information and/or Protected Health Information relating to themselves or to patients. Nemaris agrees to use reasonable and appropriate technical, administrative, and physical security controls to protect personally identifiable information and PHI from disclosure to unauthorized parties as required under HIPAA and other laws.

Nemaris may ask for and collect certain personally identifiable information. Depending on the information and/or services you request, you may be asked to provide your name, email addresses and/or other information. Once you provide your personal information, you are not anonymous to Nemaris. Nemaris may also collect information about how you use the Surgimap Software (the "Software"), including without limitation the number of computers on which the Software was used, the length of time in each user session, and how individual features are used or ignored within the Software. Nemaris may also collect non-identifiable information about patient diagnostic categories and the types of

surgeries you plan to perform. NEMARIS DOES NOT INTENTIONALLY COLLECT ANY PERSONALLY IDENTIFIABLE PATIENT INFORMATION. As required under HIPAA, any and all information that is collected is encrypted and stored on HIPAA-compliant servers.

In addition to the information that you knowingly provide, Nemaris collects other information such as domain names and IP addresses of its visitors, along with usage statistics (e.g., types of web browsers and operating systems used). This data is used to more efficiently operate Nemaris' business and services and administer Nemaris' Website. Nemaris' collection and use of data is more fully explained in its accompanying Privacy Policy which you should read and which is also part of this Agreement.

In the future, we may sell some or all of our assets. In such transactions, customer information is generally one of the transferred business assets. In the event of a sale of our assets including our database, customer information will be transferred. We will require buyers to honor our privacy policy.

*Information Sharing with Unaffiliated Third Parties:* Nemaris may disclose your personally identifiable information to another entity (i) for purposes of outsourcing one or more of the functions described in the previous section; (ii) to confirm or update information provided by you; (iii) to inform you of important information; and/or (iv) as a part of a sale of assets as described in the previous section. We may also share your information in response to a subpoena, legal order or official request, when we believe you have acted in violation of the User Agreement, or when we believe that doing so may protect your safety or the safety of others.

*Information Sharing with Affiliated Companies:* We may share your personally identifiable information with other companies in the Nemaris family, co-branding partners and network partners. We will require the recipient to comply with the provisions of this privacy policy.

*Sharing and Use of De-identified Information:* Information that is de-identified (i.e., stripped of any information that could be used to identify you) may be used by Nemaris for any reason. This information is usually aggregated (i.e., combined with information from many other users), and may include information such as traffic patterns and trends in connection with various types of inquiries.

5. HIPAA: Business Associate Agreement.

This Services Agreement can only be read in association with Nemaris' Business Associate Agreement. User's assent to this Services Agreement is only made valid by subsequent assent to Nemaris' Business Associate Agreement. User cannot use Nemaris Services without agreeing to respect the terms and conditions of HIPAA law.

6. User Accounts.

- 6.1. Upon registration, Nemaris shall assign an account and issue a member ID and password (the latter shall be chosen by a User during registration) to each User.
- 6.2. A set of User ID and password is unique to a single account. Each User shall be solely responsible for maintaining the confidentiality and security of such User's User ID and password and for all activities that occur under such User's account. No User may share, assign, or permit the use of his or her User account, ID or password by another person outside of the User's own business entity. Each User agrees to notify Nemaris immediately if such User becomes aware of any unauthorized use of his or her password, her or his account, or any other breach of security of such User's account.
- 6.3. User agrees that all activities that occur under such User's account (including without limitation, posting any company or product information, clicking to accept any Additional Agreements or rules, subscribing to or making any payment for any services) will be deemed to have been authorized by the User.
- 6.4. User acknowledges that sharing of User's account with other persons, or allowing multiple users outside of User's business entity to use User's account (collectively, "multiple use"), may cause irreparable harm to Nemaris or other Users of the Site. User shall indemnify Nemaris, our affiliates, directors, employees, agents and representatives against any loss or damages (including but not limited to loss of profits) suffered as a result of the multiple use of User's account. User also agrees that in case of the multiple use of User's account or User's failure to maintain the security of User's account, Nemaris shall not be liable for any loss or damages arising therefrom and shall have the right to suspend or terminate User's account without liability to User.

## 7. User's Responsibilities

- 7.1. Each User represents, warrants and agrees that (a) it has full power and authority to accept the Terms, to grant the license and authorization and to perform the obligations hereunder; (b) it uses or shall use the Site and Service for business purposes only; and (c) the address it provides when registering is the principal place of business of its business entity or the email address it provides is a valid business correspondence address.
- 7.2. User will be required to provide information or material itself or its business information as part of the registration process on the Site or use of any Service or the member account. Each User represents, warrants and agrees that (a) such information and material whether submitted during the registration process or thereafter throughout the continuation of the use of the Site or Service is true, accurate, current and complete, and (b) it will maintain and promptly amend all information and material to keep it true, accurate, current and complete.
- 7.3. Upon becoming a User, you consent to the inclusion of the contact information about you in our databases and authorize Nemaris and our affiliates to share or use that information in accordance with the Privacy Policy.
- 7.4. Each User represents, warrants and agrees that User shall:
  - a. carry on User's activities on the Site in compliance with any applicable laws and regulations;
  - b. conduct User's business transactions with other users of the Site in good faith;
  - c. carry on User's activities in accordance with the Terms and any applicable Additional Agreements;
  - d. not use the Service or Site to defraud any person or entity (including without limitation sale of stolen items, use of stolen credit/debit cards);
  - e. not impersonate any person or entity, misrepresent User or User's affiliation with any person or entity;



- f. not engage in spamming or phishing;
  - g. not engage in any other unlawful activities (including without limitation those which would constitute a criminal offence, give rise to civil liability, etc.) or encourage or abet any unlawful activities;
  - h. not involve attempts to copy, reproduce, exploit or expropriate Nemaris' proprietary directories, databases and listings;
  - i. not involve any computer viruses or other destructive devices and codes that have the effect of damaging, interfering with, intercepting or expropriating any software or hardware system, data or personal information;
  - j. not involve any scheme to undermine the integrity of the data, systems or networks used by Nemaris and/or any user of the Site or gain unauthorized access to such data, systems or networks;
  - k. not engage in any activities that would otherwise create liability for Nemaris.
- 7.5. User may not use the Service and member account to engage in activities which are identical or similar to Nemaris' medical imaging and pre-operative planning business.
- 7.6. User agrees to provide all necessary information, materials and approval, and render all reasonable assistance and cooperation necessary for Nemaris' provision of the Service, evaluating whether User has breached the Terms and/or handling any complaint against the User. If User's failure to do so results in delay in, or suspension or termination of, the provision of any Service, Nemaris shall not be obliged to extend the relevant service period nor shall be liable for any loss or damages arising from such delay, suspension or termination.
- 7.7. User acknowledges and agrees that Nemaris shall not be required to actively monitor nor exercise any editorial control whatsoever over the content of any message or material or information created, obtained or accessible through the Service or Site. Nemaris does not endorse, verify

or otherwise certify the contents of any comments, images, or material or information made by any User. Each User is solely responsible for the contents of their communications and may be held legally liable or accountable for the content of their comments or other material or information

- 7.8. User acknowledges and agrees that each User is solely responsible for observing applicable laws and regulations in its respective jurisdictions to ensure that all use of the Site and Service are in compliance with the same.

## 8. Breaches by Users

- 8.1. Any information, content or material on the Site you create, display or share when created, displayed, or shared by a User shall be referred to as “User Content.” Sugimap reserves the right in our sole discretion to remove, modify or remove, or reject User Content that we reasonably believe is unlawful, violates the Terms, could subject Nemaris or our affiliates to liability, or is otherwise found inappropriate in Nemaris’ opinion.
- 8.2. If any User breaches any Terms or if Nemaris has reasonable grounds to believe that any User is in breach of any the Terms, Nemaris shall have the right to impose a penalty against the User, or suspend or terminate the User’s account or subscription of any Service without any liability of Nemaris to the User. Nemaris shall also have the right to restrict, refuse or ban any and all current or future use of any other Service that may be provided by Nemaris. The penalties that Nemaris may impose include, among others, warning, removing any User Content, imposing restrictions on User Content, or imposing restrictions on the User’s use of any features or functions of any Service for such period as Nemaris may consider appropriate in our sole discretion.
- 8.3. Without limiting the generality of the provisions of the Terms, a User would be considered as being in breach of the Terms in any of the following circumstances:
  - a. upon complaint or claim from any third party, if Nemaris has reasonable grounds to believe that such User has willfully or materially failed to perform its contract with such third party,

- b. Nemasris has reasonable grounds to suspect that a User has used false or misleading information in any transaction with a counter party,
  - c. Nemasris has reasonable grounds to suspect that any information provided by the User is not current or complete or is untrue, inaccurate, or misleading, or
  - d. Nemasris believes that the User's actions may cause financial loss or legal liability to Nemasris or our affiliates or any other Users.
- 8.4. Nemasris reserves the right to cooperate fully with governmental authorities, private investigators and/or injured third parties in the investigation of any suspected criminal or civil wrongdoing. Further, and as described in our Privacy Policy, Nemasris may disclose the User's identity and contact information, if requested by a government or law enforcement body, an injured third party, or as a result of a subpoena or other legal action. Nemasris shall not be liable for damages or results arising from such disclosure, and User agrees not to bring any action or claim against Nemasris for such disclosure.
- 8.5. If a User is in breach of the Terms, Nemasris also reserves the right to publish the records of such breach. If such breach involves or is reasonably suspected of involving dishonest or fraudulent activities, Nemasris also reserves the right to disclose the records of such breach to our affiliates. Such Nemasris affiliates may impose limitation on, suspend or terminate the User's use of all or part of the services provided by such affiliates to the User, take other remedial actions, and publish the records about the User's breach of the Terms on the websites operated by or controlled by such Nemasris affiliates.
- 8.6. Each User agrees to indemnify Nemasris, our affiliates, directors, employees, agents and representatives and to hold them harmless, from any and all damages, losses, claims and liabilities (including legal costs on a full indemnity basis) which may arise from such User's submission, sharing or display of any User Content, from User's use of the Site or Service, or from User's breach of the Terms.
- 8.7. Nemasris reserves the right, at our own expense, to assume the exclusive defense and control of any matter otherwise subject to indemnification by

the User, in which event the User shall cooperate with Nemaris in asserting any available defenses.

9. Fees. It is agreed that, as consideration for the Services to be provided under this Agreement, every User shall pay Nemaris the fees or subscription amounts presented by Nemaris at the time of purchase, if any, and the terms and conditions presented at that time shall become a part of this Agreement. User shall be responsible for any and all of its costs and expenses in registering, connecting to and using the Services, and with respect to the performance of its obligations under this Agreement.
10. License to Customer Data. In the course of using the Service, User may submit Customer Data. User hereby grants to Nemaris a non-exclusive, perpetual, royalty-free, fully paid, worldwide right to use, copy, distribute, display, disclose, sublicense, transfer, perform, modify and make derivative works from such Customer Data, in connection with Nemaris' development, invention, provision, implementation, operation, maintenance and testing of the Service. User, not Nemaris, shall have sole responsibility for the accuracy, quality, integrity, legality, reliability, appropriateness, and intellectual property ownership or right to use of all Customer Data, and Nemaris shall not be responsible or liable for the deletion, accuracy, correction, disclosure, destruction, damage, loss or failure to store any Customer Data.
11. Intellectual Property Ownership. Nemaris alone (and its licensors, where applicable) shall own all right, title and interest, including all related intellectual property rights, in and to the Nemaris know-how, Intellectual Property, Content and the Service. This Agreement is not a sale and does not convey to User any rights of ownership in or related to the Service, the Nemaris know-how, Intellectual Property, Content or the Service. The Nemaris and Nemaris names, the Nemaris and Nemaris logos, and the product names associated with the Service are trademarks of Nemaris or third parties, and no right or license is granted to use them.
12. Term and Termination.
  - 12.1. This Agreement shall take effect on the Effective Date and will continue to be in effect for the duration of the User's subscription period as communicated to User by Nemaris at the time of registration. Either party may terminate this Agreement immediately upon notice, if the other party breaches any of its material obligations under this Agreement, and if such

breach is not remedied within ten (10) days following written notice to such breaching party.

12.2. Upon termination of this Agreement for any reason, Nemaris shall return and/or destroy all PHI received or created pursuant to this Agreement that Nemaris maintains in any form and shall retain no copies of such information unless required by law. If return or destruction of such PHI is not feasible, Nemaris will continue to extend the protections set forth in Section 5 of this Agreement to such information and limit further use or disclosure of such PHI to those purposes that make the return or destruction infeasible, for so long as Nemaris maintains such PHI.

13. Representations & Warranties. Each party represents and warrants that it has the legal power and authority to enter into this Agreement, and will at all times comply with all laws, rules and regulations applicable to their business and dealings under this Agreement.

14. Disclaimer of Warranties. THE SERVICE AND ALL CONTENT IS PROVIDED TO USER STRICTLY ON AN "AS IS" AND "AS AVAILABLE" BASIS. ALL CONDITIONS, REPRESENTATIONS AND WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT OF THIRD PARTY RIGHTS, ARE HEREBY DISCLAIMED TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW BY NEMARIS AND ITS LICENSORS. NEMARIS AND ITS LICENSORS MAKE NO REPRESENTATION, WARRANTY, OR GUARANTY AS TO THE RELIABILITY, TIMELINESS, QUALITY, SUITABILITY, TRUTH, AVAILABILITY, ACCURACY OR COMPLETENESS OF THE SERVICE OR ANY CONTENT. NEMARIS AND ITS LICENSORS DO NOT REPRESENT OR WARRANT THAT (A) THE USE OF THE SERVICE WILL BE TIMELY, UNINTERRUPTED OR ERROR-FREE OR OPERATE IN COMBINATION WITH ANY OTHER HARDWARE, SOFTWARE, SYSTEM OR DATA, (B) THE SERVICE WILL MEET USER'S REQUIREMENTS OR EXPECTATIONS, (C) ANY STORED DATA WILL BE ACCURATE OR RELIABLE, (D) THE QUALITY OF ANY PRODUCTS, SERVICES, INFORMATION, OR OTHER MATERIAL PURCHASED OR OBTAINED BY USER THROUGH THE SERVICE WILL MEET USER'S REQUIREMENTS OR EXPECTATIONS, (E) ERRORS OR DEFECTS WILL BE CORRECTED, OR (F) THE SERVICE OR THE

SERVER(S) THAT MAKE THE SERVICE AVAILABLE ARE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS.

User recognizes that the Service may be temporarily interrupted or be made unavailable by accident or for scheduled maintenance or for unscheduled maintenance, either by Nemaris or by third-party providers, or for other causes beyond Nemaris' reasonable control. Nemaris will not be held liable for any such interruption or unavailability, but Nemaris shall attempt to use reasonable efforts to provide advance notice in writing or by e-mail of any scheduled service disruption of significant length if viable and possible.

*Do Not Rely on Information in Service.* Regarding the application to medical situations, every User specifically understands and agrees that information provided by Nemaris or any Participant or resulting from use of the Service does not constitute, and may not be construed as, Medical Consultation, Professional Services or the Practice of Medicine by Nemaris, and every User hereby agrees that User will not consider, represent or advertise any information obtained from the use of the Service as resulting from Medical Consultation, the provision of Professional Services or the Practice of Medicine by Nemaris. User specifically agrees to not represent to anyone that information learned from the Service, any Nemaris website, the User's account with Nemaris or suppliers of Nemaris constitutes any Medical Consultation, Professional Services or the Practice of Medicine. The information contributed or provided by Participants on the Service is strictly that of those Participants and is not reviewed in any way nor ever professionally endorsed by Nemaris. Nemaris shall have no duty to ensure the accuracy or appropriateness of any information on the Service or any information contributed or provided by Participants on the Service.

15. Limitation of Liability. IN NO EVENT SHALL NEMARIS' AGGREGATE LIABILITY UNDER THIS AGREEMENT EXCEED THE AMOUNTS ACTUALLY PAID BY USER IN THE THREE (3) MONTH PERIOD IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO SUCH CLAIM. IN NO EVENT SHALL NEMARIS AND/OR ANY OF ITS LICENSORS BE LIABLE TO ANYONE FOR ANY INDIRECT, PUNITIVE, SPECIAL, EXEMPLARY, INCIDENTAL, CONSEQUENTIAL OR OTHER DAMAGES OF ANY TYPE (INCLUDING LOSS OF DATA, REVENUE, PROFITS, USE OR OTHER ECONOMIC ADVANTAGE) ARISING OUT OF, OR IN ANY WAY CONNECTED WITH THIS SERVICE, INCLUDING BUT NOT LIMITED TO THE USE OR INABILITY TO USE THE SERVICE, OR FOR ANY CONTENT, INFORMATION OR ADVICE OBTAINED FROM OR THROUGH THE SERVICE, ANY INTERRUPTION, INACCURACY,

ERROR OR OMISSION, REGARDLESS OF CAUSE IN THE CONTENT, EVEN IF SUCH PARTY OR SUCH OF ITS LICENSORS HAVE BEEN PREVIOUSLY ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

Nemaris (and its licensors, to the extent applicable) do not warrant that the Service is suitable or available for use in every country or municipality. Specifically if a User is located outside of the United States of America, then it is the User who is solely responsible for compliance with all applicable local laws, including without limitation export and import regulations of other countries. Any diversion of the Content contrary to the laws of the United States or those of the User's country of residence is prohibited.

16. Assignment. No assignment of this Agreement is permissible except by written agreement of Nemaris as a consequence of a merger, acquisition, or sale of all or substantially all of User's assets or business to which this Agreement pertains, without the prior written approval of Nemaris. Assignments in violation of this clause will be null and void.
17. No Legal Duty to User. Nemaris and other Participants expressly disclaim any and all legal duty to any individual User and any recipient of information or advice obtained from use of the Service, or to any third parties or entities who are not a party to this Agreement.
18. Confidentiality. User will treat as confidential and not provide to any person or entity any suggestions, opinions, Content or other such information learned relative to the functioning and results of the Service obtained, unless such information is in the public domain or otherwise agreed upon in writing. If any such information becomes the subject to any subpoena or other legal requirement for production, User will give sufficient notice for Nemaris to intervene and defend itself against the publication of the information. User will cooperate with Nemaris in resisting the publication of the information.
19. Agreement Not to Assert Claims Against Nemaris or Participants & Waiver of Claims. User agrees that User will not assert against Nemaris or any of its affiliates, officers, directors, employees, agents, licensors, suppliers, or other Participants, any legal claims, demands, or actions, however described, in law or in equity arising from or relating to any use of the Service, including information or advice obtained from the Service. User specifically agrees to waive any and all claims, demands, actions or rights to assert any type of legal claim against Nemaris or other Participants for any reason whatsoever relating to, or arising from, the use of the Service. Any User, including without limitation any affiliate,

officer, director, employee, agent or contractor of User, will be held fully financially responsible for any damages or disadvantages incurring by Nemaris that arise from or relate to any breach of its obligations or duties under the Agreement and/or any negligence or willful misconduct.

20. Indemnification. User agrees to defend, indemnify and hold Nemaris, its affiliates, officers, directors, employees, agents, licensors, suppliers and its Participants harmless from and against any actual or alleged claims, actions, demands, costs, fees, liabilities, expenses and settlements (including, without limitation, reasonable legal, accounting and expert fees), arising from or related to, any use of the Service, including information or advice obtained from the Service, including without limitation any breach of any representations, warranties, terms and/or conditions set forth under this Agreement. Nemaris will provide notice to User within a reasonable time of any such claim, suit or proceeding, if required by law, and shall reasonably cooperate with User, at User's expense, in User's defense of any such claim, suit or proceeding.
21. General. This Agreement shall be governed by New York state law and controlling United States federal law, without regard to the choice or conflicts of law provisions of any jurisdiction. Any disputes, actions, claims or causes of action arising out of or in connection with this Agreement or the Service shall be subject to the exclusive jurisdiction of the state and federal courts located in New York, New York. If any provision of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, then such provision(s) shall be construed, as nearly as possible, to reflect the intentions of the invalid or unenforceable provision(s), with all other provisions remaining in full force and effect. No joint venture, partnership, employment, patient/physician or agency relationship exists between User and Nemaris as a result of this Agreement, or any use of the Service. The failure of Nemaris to enforce any right or provision in this Agreement shall not constitute a waiver of such right or provision unless acknowledged and agreed to by Nemaris in writing. This Agreement comprises the entire agreement between User and Nemaris with respect to User's use of the Service and supersedes all prior or contemporaneous negotiations, discussions, terms and conditions or agreements, whether written or oral, online or in print, between the parties regarding the subject matter contained herein. In the event of any conflict between this Agreement and such additional terms and conditions, this Agreement shall govern. Should the terms and conditions of this Agreement give rise to any confusion, these confusing or conflicting terms shall be interpreted in a light that is favorable to Nemaris and its Service.



BY CLICKING "I ACCEPT," YOU AGREE TO BE BOUND BY ALL THE TERMS AND CONDITIONS OF THIS AGREEMENT.