

CHADIS SERVICES AND LICENSE AGREEMENT

Total Child Health, Inc. (TCH) is a corporation engaged in the provision of clinical technology services to assist health care professionals in the provision of effective, efficient and high quality healthcare screening, diagnosis and treatment to their patients. To provide these services TCH maintains software that is accessible via the Internet and which is housed on secure servers maintained by independent third-party data service providers. The service is entitled Child Health and Development Interactive System (CHADIS). A description of CHADIS is provided on the accompanying Order Form. The provision of TCH services identified as CHADIS are provided to the Customer subject to the following terms and conditions [collectively, the "Agreement"]:

1) **TERM.** This Services and License Agreement shall become effective on the date the Order Form is executed by TCH [the "Effective Date"] and shall continue in full force and effect for not less than one [1] year and will automatically renew for one year terms thereafter unless terminated as provided for in paragraph 8 below.

1) **CHARGES**

2.1 The prices for the Services ordered by the Customer shall be TCH's current standard prices as set forth in the Order Form, as they may be adjusted and noticed from time to time. In addition, Customer shall pay or reimburse TCH for all applicable taxes, however designated (other than taxes on net income), imposed on the Services. TCH expressly reserves the right to adjust its services and may from time to time add, withdraw, or modify the Services. Prices are subject to change and may be renegotiated on an annual basis at time of contract renewal. See paragraph (8) for termination information.

2.2 Charges will be billed by subscription to customer's credit card unless arrangements are made for manual billing. TCH reserves right to impose a late fee not greater than 1.5% per month for amounts due outstanding. If there is a limitation on the late fee, the maximum rate permitted under applicable law shall be charged. Any question or dispute concerning invoices must be submitted in writing within thirty days of the date of invoice.

3) **TITLE AND LICENSE.**

TCH hereby grants Customer a non-exclusive, non-transferable limited license to use the Software for purposes of this Agreement only and in the regular course of its business. Customer agrees not to transfer, adapt, modify, otherwise copy, reverse assemble, reverse compile or otherwise translate or distribute the Software or rent, lease, assign or attempt to license it or allow other persons or entities to use it. The license shall terminate with the termination of the Agreement.

TCH or its affiliates do not assume any liability for errors of clinical judgment that may occur through use of CHADIS. Customer is solely responsible for all clinical judgments and medical care that may be made through use of CHADIS. Further TCH is not recommending or endorsing any of the resources that are listed in the CHADIS Resources Data Base or which may be accessed via the Internet from the CHADIS system.

4) **CONFIDENTIALITY and SECURITY.** Each party hereto agrees not to disclose, copy or use for any purpose other than the performance of this Agreement, and to treat as confidential and as proprietary to each other, all information which relates to the other party's technology, research and development, business affairs including any data contained in the transactions communicated over the TCH network, pricing or the other terms of this Agreement (collectively the "Confidential Information"). TCH and Customer each further agrees to protect the Confidential Information with the same degree of care it exercises to protect its own confidential information and to prevent its unauthorized disclosure. In no event, however, shall less than a reasonable standard of care be used. The foregoing shall not apply to information which: (i) is publicly available; (ii) rightfully obtained from a third party; or (iii) required to be disclosed by a regulatory or governmental authority or action, provided that the recipient of the information promptly provides advance notice to the other party of any such disclosure requirement. TCH recognizes that it is a Business Associate of the customer per the mandates of the HIPAA law, and will review, and if approved, execute customer's Business Associate agreement if requested by Customer. In the event of any conflict between this agreement and the Business Associate agreement, the provisions of the Business Associate agreement shall take precedence. The terms of this Section shall survive termination of the Agreement.

5) **CUSTOMER RESPONSIBILITIES.**

Customer shall be responsible for protection of its premises, equipment, its data entered on the Service, and its ID(s), password(s), user names and the like, from all unauthorized access or use. All Customer requests for TCH to assign additional ID(s) or password(s), or to make changes to or delete any of Customer's assigned ID(s) or password(s), must be in writing. TCH agrees that per the HIPAA regulations it will implement Administrative, Physical and Technical Safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the EPHI that it creates, receives, maintains, or transmits; and ensure that any agent, including a subcontractor, to whom it provides such information agrees to implement reasonable and appropriate safeguards to protect it. However, even with these protections, customer understands and agrees that TCH does not guarantee the Service against compromise and that TCH will not be liable, either in contract, in tort or under any other theory, for any loss resulting there from, including without limitation any direct or indirect loss resulting from unauthorized access to, or alteration, theft, or destruction of data files, programs and/or information of Customer.

5.1 In the event that Customer's own equipment, applications, or other obtained services are not available or in working order, Customer shall remain liable for charges for Service ordered from TCH whether or not Customer is accessing and making use of such services.

6) LIMITED WARRANTY.

6.1 TCH hereby warrants that, as part of the Service, it will transmit and deliver the data furnished by the Customer, log and archive transactions, and supply those other services selected by Customer as described in TCH service specifications.

6.2

If data furnished by the Customer is lost, destroyed or impaired ["Loss"] through the sole negligence of TCH, then TCH's liability and Customer's sole remedy shall be that TCH will either (i) to the extent reasonably possible, restore Customer data from TCH archives after receiving written notice of said Loss if TCH is notified of the Loss within sixty (60) days of the Loss, and provide Customer a credit for charges paid in connection with the transmission lost, or (ii), if TCH is notified of the Loss beyond said (60) day period, provide Customer a credit for charges paid in connection with the transmission of the lost data. TCH also agrees to comply with all provisions of the HIPAA regulations in regard to lost, stolen, destroyed or compromised information or data in its possession.

6.3 EXCEPT TO THE EXTENT EXPRESSLY SET FORTH IN THIS SECTION, TCH MAKES NO WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, AND SPECIFICALLY DISCLAIMS ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR OF FITNESS FOR A PARTICULAR PURPOSE, INCLUDING THAT THE OPERATION OF THE SERVICES WILL BE UNINTERRUPTED OR ERROR FREE.

7) LIMITATION OF LIABILITY.

7.1 IN NO EVENT SHALL EITHER PARTY OR AN AFFILIATED COMPANY OR ANY OF ITS OR THEIR OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, OR SUBCONTRACTORS [COLLECTIVELY FOR THE PURPOSES OF THIS SECTION "TCH"] BE LIABLE FOR ANY FORM OF DIRECT OR INDIRECT, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES, INCLUDING BUT NOT LIMITED TO LOST PROFITS OR SAVINGS, LOSS OF USE OF THE SERVICES, COST OF CAPITAL, COST OF SUBSTITUTE SERVICES, DOWNTIME COSTS AND THIRD PARTY CLAIMS, ARISING IN CONNECTION WITH THIS AGREEMENT, THE SERVICES, AND/OR THE INTENDED USE THEREOF, UNDER ANY THEORY OF TORT, CONTRACT, STRICT LIABILITY, NEGLIGENCE OR OTHER LEGAL THEORIES, EVEN IF TCH HAS BEEN ADVISED, KNEW OR SHOULD HAVE KNOWN OF THE POSSIBILITY OF SUCH DAMAGES.

7.2 IN NO EVENT SHALL ANY DAMAGES THAT MAY BE ASSESSED AGAINST TCH FOR ANY REASON EXCEED THE PRICE PAID TO TCH BY CUSTOMER FOR THE SPECIFIC SERVICES RENDERED UNDER THIS AGREEMENT THAT ARE THE BASIS FOR THE CLAIM UNLESS THE EXECUTED HIPAA ADDENDUM PROVIDES OTHERWISE.

7.3 THE REMEDIES PROVIDED FOR IN THIS AGREEMENT ARE EXCLUSIVE.

8) TERMINATION. This Agreement may be terminated by either party upon sixty (60) days written notice prior to end of term or thirty (30) days from notice of any change in standard prices or change in the services. In the event of non-payment of charges for thirty days after invoice dates, TCH may terminate this Agreement and Services provided for hereunder without further notice. Upon termination, and subject to payment of all charges due TCH, Customer data will be provided to Customer in electronic form if requested by customer.

9) MISCELLANEOUS.

9.1 This Agreement may not be assigned, except to an affiliated company or a successor in interest, by either party without the other party's prior written consent, which consent shall not be unreasonably withheld. Nothing herein shall be construed to give any rights enforceable by any third party.

9.2 No modification or amendment to this Agreement, nor any waiver or consent to any departure from any of its provisions, shall be valid or effective unless in writing and signed by both parties hereto. No waiver of any breach of any provisions hereof shall be construed to be a waiver of any succeeding breach of such provision or any other provision hereof. Delay or failure to exercise any right or remedy shall not be deemed a waiver of that right or remedy.

9.3 Any notice under this Agreement shall be in writing and shall be deemed delivered on the date service is made personally, or by facsimile transmission and confirmed received, the day following delivery if sent by overnight courier, or five [5] days after the date of mailing if sent registered mail, postage prepaid, return receipt requested, and addressed to the parties at their respective addresses set forth on the last page of this Agreement or to such other address as either party may, from time to time, designate.

9.4 The obligations of the parties under this Agreement shall be suspended to the extent and for the period of time that a party hereto is hindered or prevented from fulfilling its obligations because of any cause beyond its reasonable control, including without limitation, utility or communication failures or delays, failure of vendors and suppliers, labor disturbances, explosions or governmental action; provided, however, that Customer shall remain obligated to make any payments due and payable to TCH through the date a Force Majeure event precluded performance by either party. The party affected by a Force Majeure event shall not be liable to the other party for any damages resulting there from.

9.5 Other Sections of the Agreement notwithstanding, either Party reserves the right to discontinue the Service and terminate this Agreement in the event of bankruptcy (voluntary or involuntary), insolvency or non-payment for services on the part of either Party.

9.6 Nothing herein contained shall be construed as constituting a partnership, joint venture, or agency between the parties hereto.

9.7 Notwithstanding that either party may have terminated this Agreement in accordance with provisions herein, Sections 2, 3, 4, 5 and 8 shall continue in full force and effect until discharged.

9.8 This Agreement constitutes the entire understanding of the parties, and supersedes all prior or contemporaneous arrangements, commitments, agreements, whether written or oral, with respect to the subject matter hereof.

9.9 This Agreement shall be governed by and construed in accordance with the laws of the State of Delaware.