

TERMS AND CONDITIONS - SOFTWARE

Thank you for your interest in purchasing software from LMSI, LLC d/b/a Lighthouse Lab Services (referred to herein as “we”, “us”, “our”, or “LLS”). We value your business, and our goal is to make your experience as smooth as possible. For the purposes of these Terms and Conditions, the terms “you,” “your,” “Customer,” and “Client” refer to the purchaser of products or services from LLS (each of LLS and Client individually a “Party”). Unless otherwise expressly agreed in writing, your purchase of products or services are subject to the following terms and conditions:

1. Agreement Terms

1.1. General Terms. These terms and conditions (“**Terms**”) govern the relationship between you and LLS for your purchase of products or services from us. You agree to accept and be bound by these Terms by ordering products or services from us.

1.2. Supplementary Terms. Some of our products and services are subject to additional software licenses, limited use label licenses, or other written contract terms that you will not find here (collectively, “**Supplementary Terms**”). You will find any Supplementary Terms that apply in your quote or other signed agreement with LLS (“**Statement of Work**” and together with the Terms and Supplementary Terms, the “**Agreement**”), on our website, or in literature that accompanies the product or service.

1.3. Conflicting Terms. If any conditions within the Agreement documents conflict with each other, we will give them the following priority: (a) Statement of Work; (b) any applicable Supplementary Terms; and (c) finally, these Terms and Conditions. We expressly reject any different terms or provisions contained in any document you provide, and if the terms and conditions in the Agreement differ from the terms of your offer, the Agreement will serve as the governing terms for our contract.

1.4. When the Terms Take Effect. BY USING OR PURCHASING THE USE OF AN LLS PLATFORM AND/OR SERVICES, CLIENT SIGNIFIES ITS ASSENT TO THESE TERMS. IF YOU ARE ACTING ON BEHALF OF AN ENTITY, THEN YOU REPRESENT THAT YOU HAVE THE AUTHORITY TO ENTER INTO AN AGREEMENT ON BEHALF OF THAT ENTITY. IF CUSTOMER DOES NOT ACCEPT THE TERMS OF THIS AGREEMENT, THEN IT MUST NOT USE THE PLATFORM OR SERVICES.

1.5. Open-Source Software. The Platform and Deliverables may include individual open-source software components, each of which has its own copyright and its own applicable license conditions, and such components are provided under the terms of the applicable open-source license conditions and/or copyright notices that can be found in the Documentation rather than this Agreement.

1.6. Severability. If any provision of this Agreement is held to be invalid or unenforceable, the remaining portions shall remain in full force and effect and such provision shall be enforced to the maximum extent possible so as to effect the intent of the parties and shall be reformed to the extent necessary to make such provision valid and enforceable.

1.7. Waiver. No waiver of rights by either party may be implied from any actions or failures to enforce rights under this Agreement.

1.8. Government and Other Regulation. Customer agrees to comply with all applicable laws and regulations with respect to its performance under this Agreement, including without limitation all anti-corruption and export laws. The Platform and its accompanying documentation are deemed to be “commercial computer software” and “commercial computer software documentation,” respectively, pursuant to DFAR Section 227.7202 and FAR Section 12.212(b), as applicable. Any use, modification, reproduction, release, performing, displaying, or disclosing of the Platform by the U.S. government shall be governed solely by the terms of this Agreement.

1.9. Hosting. Notwithstanding any contrary term in these Terms and Conditions, Customer is aware and agrees to the hosting of the Platform by third-party hosting providers and agrees that the terms of the agreement between

Lighthouse and such hosting providers may not comply with all of the terms of this Agreement; however, Lighthouse shall be responsible to Customer for: (a) the hosting of the Platform in accordance with the terms of this Terms and Conditions; and (b) any liability incurred by Customer resulting from the acts or omissions of such hosting providers related to this Agreement.

1.10. Definitions.

1.10.1. “**Business Days**” means any day other than a Saturday, Sunday or holiday observed by the New York Stock Exchange.

1.10.2. “**Confidential Information**” means any and all information or proprietary materials (in every form and media) that should reasonably be considered confidential and that has been or is hereafter disclosed or made available by one party to the other party in connection with the transactions contemplated under this Agreement.

1.10.3. “**Customer Data**” means information, data, and other content, in any form or medium, that is collected, downloaded, or otherwise received, directly or indirectly, by Lighthouse from Customer or an End User, by or through the Platform.

1.10.4. “**Disclosing Party**” means the party to this Agreement disclosing Confidential Information to the other party.

1.10.5. “**Documentation**” means the electronic user and administrative manuals provided with the Platform.

1.10.6. “**End User**” means any individual or entity that directly or indirectly through another user uses the Platform under Customer’s account pursuant to a Subscription.

1.10.7. “**Fees**” mean the fees set forth in the applicable Order Form as further described in this Agreement.

1.10.8. “**LIS**” means Beacon Laboratory Information System.

1.10.9. “**Lighthouse Acceptable Use Policy**” means the acceptable use policy set forth in Exhibit A.

1.10.10. “**Order Form**” is an order form entered into by Lighthouse and Customer that incorporates this Agreement.

1.10.11. “**Platform**” means the object code version of the Lighthouse software product(s) hosted by Lighthouse (for example, Beacon Laboratory Information System or RCM Spotlight) as described on the applicable Order Form along with the Documentation provided by Lighthouse with such Platform.

1.10.12. “**Professional Services**” means implementation, integration, customization, training, and other similar services related to use of the Platform that are provided by Lighthouse to Customer as described in a statement of work attached to an Order Form as well as any Deliverables (as defined in Section 5 below) that may be provided by Lighthouse in its provision of such Professional Services. For the avoidance of doubt, Support Services are not Professional Services.

1.10.13. “**Receiving Party**” means the party to this Agreement receiving Confidential Information from the other party.

1.10.14. “**Service Levels**” means the availability metrics for the LIS Platform only as set forth in the Statement of Work.

1.10.15. “**Services**” are Support Services (for the LIS Platform only) and Professional Services.

1.10.16. “**Subscription**” means the right to use the applicable Platform and, with respect to the LIS Platform only, to receive Support Services as further described in this Agreement.

1.10.17. “**Suggestions**” means all suggested improvements to the Subscriptions and Professional Services that are provided to Lighthouse by Customer or its End Users.

1.10.18. “**Support Services**” means the maintenance and support services only provided for the LIS Platform as part of the applicable Subscription as described in attached Exhibit A.

2. License Grant and Restrictions.

2.1. **License.** Subject to the terms of this Agreement, Lighthouse grants to Customer, during the Subscription, a limited, nonexclusive, non-sublicensable and nontransferable license to remotely access and use the Platform hosted by Lighthouse in a Software as a Service model for Customer’s internal business purposes. Customer’s use of the Platform shall be limited to the number of End Users and any other usage restrictions designated on the applicable Order Form. Except to the extent caused by Lighthouse’s breach of this Agreement, Customer is responsible for all activities that occur under its account. Customer shall be solely responsible for providing, maintaining, and supporting all Customer computer hardware, software, internet access, and other products and services that may be required for Customer to access and/or use the Platform and obtain the Services, for providing and maintaining the appropriate operating environment for Customer’s system, and for maintaining appropriate backup and disaster recovery procedures and facilities with respect to Customer’s systems.

2.2. **Restrictions.** Except as otherwise expressly permitted in this Agreement, Customer shall not itself, or through any parent, subsidiary, affiliate, agent or other third party: (a) sell, lease, license, distribute, sublicense or otherwise transfer, in whole or in part, any Deliverables or the Platform to a third party; (b) except to the extent permissible by applicable law, decompile, disassemble, translate, reverse engineer or otherwise attempt to derive source code from the Deliverables or Platform; provided that before Customer exercises any rights that Customer believes it is entitled to under applicable law, Customer shall provide Lighthouse with thirty (30) days’ prior written notice and provide all reasonably requested information to allow Lighthouse to assess Customer’s claim and, at Lighthouse’s sole discretion, to provide alternatives that reduce any adverse impact on Lighthouse’s intellectual property or other rights; (c) allow access or permit use of the Deliverables or Platform by any third party except End Users; provided that Customer shall ensure that the End Users comply with the terms of this Agreement; (d) modify or create derivative works based upon the Platform or Deliverables; (e) disclose the results of any benchmark test of the Deliverables or Platform to any third party; (f) change any proprietary rights notices that appear in the Platform or Deliverables; (g) violate any applicable law or regulation in connection with its use of the Platform or Deliverables; (h) use the Deliverables or Platform to store, distribute or transmit any unlawful, harassing, libelous, abusive, threatening, harmful, vulgar, obscene or otherwise objectionable material of any kind; (i) access or use the Platform for activities where the use or failure of the Platform would reasonably be expected to lead to death, personal injury, or environmental or property damage; or (j) violate the Lighthouse Acceptable Use Policy. Customer acknowledges and agrees that Lighthouse and its personnel may access and use Customer’s instance of the Platform and Customer Data as necessary to: (1) perform Lighthouse’s obligations under this Agreement; (2) enforce Lighthouse’s rights under this Agreement; (3) detect, prevent, or otherwise address fraud, security or technical issues; (4) improve the quality of its offerings; or (5) comply with a request from a law enforcement or regulatory agency, or other governmental authority. If Customer provides any Suggestions to Lighthouse, Lighthouse will be entitled to use the Suggestions without restriction or any obligation to Customer. Customer will: (A) ensure that it has adequate rights in the Customer Data to grant the rights to use the Customer Data as provided to Lighthouse under this Agreement; (B) use commercially reasonable efforts to prevent and terminate any unauthorized use of, or access to, the Platform; (C) promptly notify Lighthouse of any unauthorized use of, or access to, the Platform (or any access credentials thereto) of which Customer becomes aware; and (D) provide reasonable assistance in any investigation or legal action that is taken by authorities and/or Lighthouse to investigate and cure the security incident or breach to the extent caused by Customer’s account in, or use of, the Platform.

3. **Support Services and Service Levels for LIS Platform Only.** For the LIS Platform only, Lighthouse shall provide Support Services and Service Levels during the Subscription Term as described in the Supplementary Terms.

4. Professional Services.

4.1. Lighthouse shall perform the Professional Services described in a mutually executed statement of work, proposal, or similar document. Customer shall provide any assistance, consultation, review, and approvals reasonably requested by Lighthouse in connection with providing the Professional Services. Customer shall designate in writing one or more individuals (the “**Authorized Representatives**”) who are authorized to act on behalf of Customer hereunder in connection with all matters arising during the provision of the Professional Services. Lighthouse shall be entitled to rely upon any instruction, notice, instrument, or other document executed or delivered to Lighthouse by any Authorized Representative. The Authorized Representatives may be changed from time to time by Customer upon notice given to Lighthouse.

5. Ownership.

5.1. Notwithstanding anything to the contrary, except for the limited license rights expressly provided in this Agreement, Lighthouse has and will retain all right, title, and interest in and to the Platform and Deliverables (including, without limitation, all patent, copyright, trademark, trade secret and other intellectual property rights) and all copies, modifications and derivative works thereof. Customer acknowledges that Lighthouse may create software or other works of authorship delivered to Customer pursuant to or in connection with the performance of Professional Services (each, a “**Deliverable**”). Lighthouse grants to Customer a nonexclusive, nontransferable, royalty-free license to use any Deliverables for Customer’s internal purposes during the applicable Subscription Term. Customer acknowledges that it is obtaining only a limited license right to the Platform and Deliverables, and that irrespective of any use of the words “purchase,” “sale” or like terms hereunder, no ownership rights are being conveyed to Customer under this Agreement or otherwise. Except for the limited usage rights granted to Lighthouse under this Agreement, Customer will retain all right, title, and interest in and to the Customer Data.

6. Data Security.

6.1. Security Program. Lighthouse shall use commercially reasonable efforts to protect and secure Customer Data in its possession by developing, implementing, maintaining, monitoring and complying with a written data security program that contains reasonable administrative, technical and physical safeguards to protect against anticipated threats or hazards to the security, confidentiality or integrity of Customer Data in its possession, including the unauthorized or accidental acquisition, destruction, loss, alteration or use of, and the unauthorized access to, Customer Data.

6.2. Annual Review of Security Program and Audit. Lighthouse shall review and, as appropriate, revise its data security program at least annually or whenever there is a material change in Lighthouse’s business practices that may reasonably affect the security or integrity of Customer Data.

6.3. Physical and Environmental Security. Lighthouse shall ensure that its information processing facilities that handle, process and store Customer Data are housed in secure areas and protected by perimeter security, such as barrier access controls that provide a physically secure environment from unauthorized access, damage, and interference.

6.4. Security Breach. Lighthouse shall promptly notify Customer if there is any unauthorized access to or disclosure of unencrypted Customer Data, while in the possession of and under the control of Lighthouse (a “**Security Breach**”). Lighthouse shall fully advise Customer with respect to the facts and circumstances of the Security Breach. Lighthouse shall also use diligent efforts to remedy any such Security Breach in a timely manner and deliver to Customer a root cause assessment and future incident mitigation plan with regard to each Security Breach. If any such Security Breach results from Lighthouse’s material breach of this Agreement or any act or omission of Lighthouse or any Lighthouse personnel that constitutes gross negligence or willful or intentional misconduct, Lighthouse shall reimburse Customer for all reasonable costs and expenses Customer actually incurs in providing any legally required notifications of such Security Breach.

6.5. Data Backup and Disaster Recovery. Lighthouse shall maintain or cause to be maintained commercially reasonable disaster avoidance procedures designed to safeguard the Customer Data, Lighthouse’s processing capability and the availability of the Platform, in each case throughout the applicable Subscription Term. Without limiting the foregoing, Lighthouse shall conduct or have conducted daily backups of Customer Data and perform or cause to be

performed other periodic backups of Customer Data and store such backup Customer Data in a commercially reasonable location and manner.

6.6. Business Associate Agreement. Lighthouse and Customer hereby enter into the Business Associate Agreement located the Terms and Conditions – BAA and incorporated herein by reference regarding any use of or access to protected health information (“**PHI**”) as defined by the Health Insurance Portability and Accountability Act of 1996, as amended (“**HIPAA**”), by Lighthouse under this Agreement.

6.7. Data Portability. Upon the expiration or termination of this Agreement or the applicable Subscription Term, Customer and its End Users shall have no further right to access or use the Platform or Deliverables. Upon request received within thirty (30) days of such expiration or termination, Lighthouse shall return one copy of all Customer Data to Customer using an industry acceptable format, and Lighthouse may also retain and archive one copy of all Customer Data for any longer period of time required for Lighthouse to comply with any applicable laws or regulations. At the end of any such period, all Customer Data shall be destroyed.

7. Indemnification.

7.1. General. Customer will defend, indemnify and hold Lighthouse and its employees, officers, directors and representatives harmless from and against any claims, damages, losses, liabilities, costs and expenses (including reasonable attorneys’ fees) arising out of or relating to any third-party claim concerning: (a) Customers’ or any End User’s use of the Platform; (b) breach of this Agreement or violation of applicable law by Customer, End Users or Customer Data; or (c) a dispute between Customer and any End User.

7.2. Intellectual Property Infringement.

7.2.1. Subject to the limitations in this Section 7, Lighthouse will defend Customer and its employees, officers and directors against any third-party claim alleging that the use of the Platform as permitted hereunder infringes or misappropriates that third party’s intellectual property rights, and Lighthouse will pay the amount of any adverse final judgment or settlement.

7.2.2. Subject to the limitations in this Section 7, Customer will defend Lighthouse and its employees, officers and directors against any third-party claim alleging that the use of Customer Data as permitted hereunder infringes or misappropriates that third party’s intellectual property rights, and Customer will pay the amount of any adverse final judgment or settlement.

7.2.3. Neither party will have obligations or liability under this Section 7.2 to the extent arising from infringement by combinations of the Platform or Customer Data, as applicable, with any other product, service, software, data, content, or method if such claim would not have arisen but for the combination(s). In addition, Lighthouse will have no obligations or liability arising from Customer’s or any End User’s use of the Platform after Lighthouse has notified Customer to discontinue such use due to such a claim. The remedies provided in this Section 7.2 are the sole and exclusive remedies for any third-party claims of infringement or misappropriation of intellectual property rights by the Platform or by Customer Data.

7.2.4. For any claim covered by Section 7.2.1, Lighthouse will, at its election, either: (i) procure the rights to use that portion of the Platform alleged to be infringing; (ii) replace the alleged infringing portion of the Platform with a non-infringing alternative; (iii) modify the alleged infringing portion of the Platform to make it non-infringing; or (iv) terminate the alleged infringing portion of the Platform or this Agreement and refund to Customer any prepaid but unused Fees paid therefor.

7.3. Process. The obligations under this Section 7 will apply only if the indemnified party: (a) gives the indemnifying party prompt written notice of the claim; provided that in the event such notice is not given, the indemnifying party will only be relieved of its obligations under this Section 7 to the extent it was actually prejudiced by such failure; (b) permits the indemnifying party to control the defense and settlement of the claim; and (c) reasonably cooperates with the indemnifying party (at the indemnifying party’s expense) in the defense and settlement of the claim. In no event will the indemnifying party agree to a settlement of any such claim that involves a commitment by the

indemnified party, other than the payment of money for which the indemnified party will be indemnified hereunder, without the written consent of the indemnified party.

8. **Disclaimer.** THE PLATFORM, DELIVERABLES AND SERVICES ARE PROVIDED “AS-IS,” AND LIGHTHOUSE AND ITS SUPPLIERS MAKE NO OTHER WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, INTEGRATION, NON-INFRINGEMENT, TITLE, PERFORMANCE AND ACCURACY, AND HEREBY DISCLAIM ANY IMPLIED WARRANTIES ARISING FROM STATUTE, COURSE OF DEALING, COURSE OF PERFORMANCE OR USAGE OF TRADE.
9. **Suspension.** Lighthouse may suspend use of the Platform without liability if: (a) Lighthouse reasonably believes that the Platform is being used in violation of this Agreement; (b) Customer does not cooperate with Lighthouse’s reasonable investigation of any suspected violation of this Agreement; (c) Lighthouse is required by law, or a regulatory or government body, to suspend Customer’s or End Users’ use of the Platform; (d) there is suspected unauthorized third-party access to the Platform; or (e) there is another event for which Lighthouse reasonably believes that the suspension of use of the Platform is necessary to protect Lighthouse, the Platform or other users. Lighthouse will give Customer advance notice of a suspension under this paragraph of at least 24 hours unless Lighthouse determines in its reasonable commercial judgment that a suspension on shorter, contemporaneous or no notice is necessary to protect Lighthouse or its other customers from imminent and significant operational, legal or security risk. If Lighthouse suspends Customer’s right to access or use any portion or all of the Platform: (i) Customer remains responsible for Fees and charges incurred during the period of suspension; and (ii) Customer may not be entitled to any Service Credit for any period of suspension. Lighthouse will lift any such suspension when the circumstances giving rise to the suspension have been resolved.
10. **Survival.** Sections 2, 5, and 7 shall survive the expiration or termination of this Agreement.

Exhibit A

Acceptable Use Policy

This Acceptable Use Policy (this “**Policy**”) describes prohibited uses of the software platform offered by LLS (the “**Platform**”) and associated websites (the “**Site**”). The examples described in this Policy are not exhaustive. We may modify this Policy at any time by posting a revised version on the Site. By using the Platform or accessing the Site, you agree to the latest version of this Policy. If you violate the Policy or authorize or help others to do so, we may suspend or terminate your use of the Platform and/or Site.

No Illegal, Harmful, or Offensive Use or Content

You may not use, or encourage, promote, facilitate, or instruct others to use, the Platform or Site for any illegal, harmful, fraudulent, infringing or offensive use, or to transmit, store, display, distribute or otherwise make available content that is illegal, harmful, fraudulent, infringing or offensive. Prohibited activities or content include:

- **Illegal, Harmful or Fraudulent Activities.** Any activities that are illegal, that violate the rights of others, or that may be harmful to others, our operations or reputation, including disseminating, promoting or facilitating child pornography, offering or disseminating fraudulent goods, services, schemes, or promotions, make-money-fast schemes, ponzi and pyramid schemes, phishing, or pharming.
- **Infringing Content.** Content that infringes or misappropriates the intellectual property or proprietary rights of others.
- **Offensive Content.** Content that is defamatory, obscene, abusive, invasive of privacy, or otherwise objectionable, including content that constitutes child pornography, relates to bestiality, or depicts non-consensual sex acts.
- **Harmful Content.** Content or other computer technology that may damage, interfere with, surreptitiously intercept, or expropriate any system, program, or data, including viruses, Trojan horses, worms, time bombs, or cancelbots.

No Security Violations

You may not use the Platform or Site to violate the security or integrity of any network, computer or communications system, software application, or network or computing device (each, a “**System**”). Prohibited activities include:

- **Unauthorized Access.** Accessing or using any System without permission, including attempting to probe, scan, or test the vulnerability of a System or to breach any security or authentication measures used by a System.
- **Interception.** Monitoring of data or traffic on a System without permission.
- **Falsification of Origin.** Forging TCP-IP packet headers, e-mail headers, or any part of a message describing its origin or route. The legitimate use of aliases and anonymous remailers is not prohibited by this provision.

No Network Abuse

You may not make network connections to any users, hosts, or networks unless you have permission to communicate with them. Prohibited activities include:

- **Monitoring or Crawling.** Monitoring or crawling of a System that impairs or disrupts the System being monitored or crawled.
- **Denial of Service (DoS).** Inundating a target with communications requests so the target either cannot respond to legitimate traffic or responds so slowly that it becomes ineffective.

- **Intentional Interference.** Interfering with the proper functioning of any System, including any deliberate attempt to overload a system by mail bombing, news bombing, broadcast attacks, or flooding techniques.
- **Operation of Certain Network Services.** Operating network services like open proxies, open mail relays, or open recursive domain name servers.
- **Avoiding System Restrictions.** Using manual or electronic means to avoid any use limitations placed on a System, such as access and storage restrictions.

No E-Mail or Other Message Abuse

You will not distribute, publish, send, or facilitate the sending of unsolicited mass e-mail or other messages, promotions, advertising, or solicitations (like “spam”), including commercial advertising and informational announcements. You will not alter or obscure mail headers or assume a sender’s identity without the sender’s explicit permission. You will not collect replies to messages sent from another internet service provider if those messages violate this Policy or the acceptable use policy of that provider.

Our Monitoring and Enforcement

We reserve the right, but do not assume the obligation, to investigate any violation of this Policy or misuse of the Platform or Site. We may:

- investigate violations of this Policy or misuse of the Platform or Site; or
- remove, disable access to, or modify any content or resource that violates this Policy or any other agreement we have with you for use of the Platform or the Site.
- We may report any activity that we suspect violates any law or regulation to appropriate law enforcement officials, regulators, or other appropriate third parties. Our reporting may include disclosing appropriate customer information. We also may cooperate with appropriate law enforcement agencies, regulators, or other appropriate third parties to help with the investigation and prosecution of illegal conduct by providing network and systems information related to alleged violations of this Policy.

Reporting of Violations of this Policy

If you become aware of any violation of this Policy, you will immediately notify us and provide us with assistance, as requested, to stop or remedy the violation. To report any violation of this Policy, please contact us at legal@lighthouseabservices