

## TERMS OF USE

This Terms of Use Agreement (“Agreement”) is a binding agreement between you (“You”, “Your” or “Yours”) and Curaspan Health Group, Inc., a subsidiary of naviHealth, Inc. (“Company”) with respect to Your nH Discharge, nH Intake, or any Company applications accessible therein (collectively, the “Application”).

PLEASE READ THIS AGREEMENT CAREFULLY BEFORE ACCESSING OR USING THE APPLICATION. YOU ACKNOWLEDGE AND AGREE THAT THIS AGREEMENT HAS THE SAME FORCE AND EFFECT AS IF IT WERE EXECUTED IN A WRITTEN DOCUMENT BY YOU AND COMPANY.

This Application is provided to customers of Company pursuant to a certain subscription agreement(s), product and pricing schedule(s), statement(s) of work, and any associated exhibit(s) or amendment(s) thereto (collectively, the “Subscription Agreement”), between Company and such customer (each, a “Customer”) and users who have been authorized by such Customer to use the Application on behalf of such Customer (“Authorized User”) in connection with providing healthcare services to patients (“Patients”). You represent and warrant that You are an Authorized User of a Customer and have all permissions, consents and other rights necessary to access and use the Application on behalf of Customer and access certain information of the Patient provided to You through the Application (“Patient Information”). You are solely responsible for Your compliance with the foregoing, the terms of this Agreement and any terms between You and any Customer. Company disclaims all liability with respect to Your access and use of any Patient Information and any claim between You, the Customer and Patient with respect thereto.

BY CLICKING THE “AGREE” BUTTON OR ACCESSING OR USING THE APPLICATION, YOU (A) ACKNOWLEDGE THAT YOU HAVE READ AND UNDERSTAND THIS AGREEMENT; (B) REPRESENT THAT YOU ARE OF LEGAL AGE TO ENTER INTO A BINDING AGREEMENT; (C) REPRESENT THAT YOU HAVE BEEN PROVIDED ACCESS TO THIS APPLICATION BY A CURRENT CUSTOMER OF COMPANY AND ARE AN AUTHORIZED USER OF SUCH CUSTOMER OF THE APPLICATION; AND (D) ACCEPT THIS AGREEMENT AND AGREE THAT YOU ARE LEGALLY BOUND BY ITS TERMS, INCLUDING WITHOUT LIMITATION CONDUCTING THIS TRANSACTION ELECTRONICALLY, DISCLAIMERS OF WARRANTIES, DAMAGE AND REMEDY EXCLUSIONS AND LIMITATIONS, ARBITRATION, AND CHOICE OF TENNESSEE LAW.

COMPANY MAY, FROM TIME TO TIME, MODIFY THIS AGREEMENT. PLEASE CHECK THIS PAGE PERIODICALLY FOR UPDATES. IF YOU DO NOT AGREE WITH THESE TERMS OF USE AS MODIFIED, THEN YOU HAVE NO RIGHT TO, AND SHALL NOT, ACCESS OR USE THE APPLICATION. THE UPDATED TERMS WILL TAKE EFFECT UPON POSTING AND WILL APPLY ON A GOING-FORWARD BASIS, UNLESS OTHERWISE PROVIDED IN A NOTICE TO YOU. YOUR CONTINUED USE OF THE APPLICATION AFTER ANY SUCH UPDATE CONSTITUTES YOUR ACCEPTANCE OF SUCH CHANGES.

### **1. NO MEDICAL ADVICE**

The Application is designed to integrate digital and physical clinical and administrative documentation in one cloud-based application to allow Authorized Users to access certain Patient Information for review or signature. The Application does not provide medical advice, diagnoses, or recommendations about medical treatment, and does not recommend or endorse any products or information for any particular circumstances. You expressly acknowledge and agree that Company is not responsible or liable for the results of any decisions made based on Your use of the Application.

### **2. GRANT OF RIGHT TO ACCESS AND USE OF THE APPLICATION**

Subject to the terms contained in this Agreement and Your compliance therewith, Company grants You a limited, revocable, non-exclusive, non-transferable, non-assignable, non-sublicenseable right to use the Application solely for Customer’s internal business purposes, strictly in accordance with the Application’s

documentation.

The Application is proprietary to Company and/or its licensors. All rights, title and interests in and to the Application and all copyrights, trade secret rights, patents, trademarks and any other intellectual property or proprietary rights in and to the Application shall at all times remain the exclusive property of Company and/or its licensors. All rights not expressly granted under this Agreement are reserved by Company.

You agree to use the Application in compliance with all applicable federal, state, and local laws, rules, and regulations. In receiving from or providing to Company or its representatives any information, including but not limited to personal information, You warrant that (a) You are providing or obtaining only Your own information or the information of others which You are authorized to provide to third parties and/or obtain from third parties on their behalf; and (b) the use of such information by Company and its representatives will not infringe upon or misappropriate the intellectual property rights or otherwise violate the rights of any third parties. **YOU EXPRESSLY ACKNOWLEDGE AND AGREE THAT TO THE EXTENT YOU SUBMIT, PROCESS, ACCESS, RECEIVE OR TRANSMIT ANY PATIENT INFORMATION OR PROTECTED HEALTH INFORMATION (AS SUCH TERM IS DEFINED IN 45 CFR § 160.103) (“PHI”) IN OR THROUGH THE APPLICATION, YOU HAVE OBTAINED ALL PERMISSIONS, CONSENTS, LICENSES, AND AUTHORIZATIONS NECESSARY OR REQUIRED BY LAW TO TRANSMIT, UPLOAD, RECEIVE AND OR/USE THE PATIENT INFORMATION AND/OR PHI IN CONNECTION WITH THE SERVICES PROVIDED HEREUNDER OR OTHERWISE IN CONNECTION WITH THIS AGREEMENT.** You understand and agree that Company will store or otherwise retain Patient Information and other PHI provided by You, such information shall be provided to the Customer on whose behalf You are viewing and providing the information, and that Company and the Application will be acting as a conduit for any such information received under this Agreement. Company hereby disclaims any and all liability related to Your use or transmission of Patient Information and/or PHI in connection with the Application or this Agreement.

### 3. ACCESS TO APPLICATION.

- (a) **You Must Have Internet Access.** In order to use the Application, You must have or must obtain access to the Internet, either directly or through devices that access web based content. You must also provide all equipment necessary to make such (and maintain such) connection to the Internet. You acknowledge that Company is not responsible for notifying You of any upgrades, fixes, or enhancements to any such equipment or for any compromise of data transmitted across computer networks not owned or operated by Company or telecommunications facilities, including, but not limited to, the Internet.
- (b) **Third-Party Browser Configuration.** You acknowledge that the Application requires third-party software to be installed on Your network and computers for Internet access. Furthermore, You acknowledge that to ensure proper operation of the Application, You must use supported configurations shown on the browser support table below. Company has defined the following categories for third-party applications which may be found at the following location: <http://navihealth.com/wp-content/uploads/BrowserSupportTable.pdf>
  - i. **Supported.** Company performs full system testing against supported third-party software and verifies that all functions within the Application operate properly. Should any third-party software fail to work with the Application, Company will take commercially reasonable steps to ensure that the Service Applications perform properly with these third party applications and in accordance with the Subscriber Agreements.
  - ii. **Limited Support.** Company performs basic functional testing against third-party software when used with the Application. The Applications are not verified to work properly against such third-party software but there are no known functional issues. If Company is notified of an issue related to limited support third-party software, Company will make reasonable business efforts to investigate the root cause of the issue and may fix the issue in a future release, at Company’s sole discretion.

- iii. **Unsupported.** Unsupported third-party software has security, performance or technical issues which may impact the functionality or operation of the Application. Company may block access to the Application for unsupported third-party software. Customer Support will not investigate issues related to unsupported third-party software.
- (c) If You use software configurations that do not meet the Company requirements set forth herein, You acknowledge that the Application may not be accessible, may not operate properly, and/or may have some disabled features. In its sole discretion, Company may modify the third-party software requirements in its sole discretion to maintain security and operational integrity. Whenever possible, Company will provide You with notice regarding changes to this configuration through updates to this Agreement.

#### **4. AUTOMATED MONITORING AND AUTOMATED LOGIN SCRIPTS PROHIBITED.**

You agree that automated monitoring scripts, performance monitoring scripts, and automated login scripts are strictly prohibited on the Application and Company production systems or networks unless approved in writing by Company. You shall not attempt to circumvent data protection schemes or uncover and/or exploit security loopholes. This includes creating and/or running programs that are designed to identify and/or exploit security loopholes and/or decrypt intentionally secure data; willful or gross negligence performing an act that intentionally prevents the normal operations of networks, computers, servers, or processes at Company; or willful or gross negligence running any program that may damage or place excessive load on a server or the network. This includes, but is not limited to, mass-invites, mass-messages, and programs known as floodbots and clonebots; forging the identity of a user or machine in an electronic communication; or intentionally repeating or transmitting material in a rapid manner with the intention of producing the effect of harassing another user by "flooding" them. Should Company discover that You have implemented any of these methods, Company may block Your network access to the Application; and/or suspend or terminate Your access.

#### **5. RESTRICTIONS**

You shall not, and You shall not permit others to:

- (a) use, copy, adapt, modify, prepare derivative works based upon, distribute, license, rent, lease, lend, sell, assign, transfer, publicly display, publicly perform, publish, transmit, stream, broadcast or otherwise exploit the Application, such as accessing or using the Application for the purpose of building a competitive product or service or copying its features or user interface, except as expressly permitted in this Agreement;
- (b) reverse engineer, disassemble, decompile, decode or otherwise attempt to derive or gain access to the source code of the Application or any part thereof;
- (c) remove, disable, circumvent or otherwise create or implement any workaround to any copy protection, rights management, user authentication, or security features in or protecting the Application or any host, network, or account related thereto;
- (d) post, upload, publish, submit or transmit any content that: (i) You do not have a right to make available under any law or under contractual or fiduciary relationships; (ii) infringes, misappropriates or violates a third party's patent, copyright, trademark, trade secret, moral or other intellectual property rights, or rights of publicity or privacy; (iii) violates, or encourages any conduct that would violate, any applicable law or regulation or would give rise to civil liability; (iv) is fraudulent, false, misleading or deceptive; (v) is defamatory, obscene, pornographic, vulgar or offensive; (vi) promotes discrimination, bigotry, racism, hatred, harassment or harm against any individual or group; (vii) is violent or threatening or promotes violence or actions that are threatening to any person or entity; or (viii) promotes illegal or

- harmful activities or substances;
- (e) interfere with or disrupt any Application;
  - (f) access, tamper with or use non-public areas of the Application, Company's computer systems, or the technical delivery systems of Company's providers;
  - (g) use any Subscription Service components other than those specifically identified in the Subscription Agreement, even if technically possible;
  - (h) access the data of any third party that is not participating in the patient transition process through any Application;
  - (i) use an Application in the operation of a service bureau, outsourcing or time-sharing service; or
  - (j) impersonate or misrepresent Your affiliation with any person or entity.

Company may investigate and prosecute violations of any of the above to the fullest extent of the law and involve and cooperate with law enforcement authorities in prosecuting users who violate this Agreement. You acknowledge that Company has no obligation to monitor Your access to or use of the Application but has the right to do so for the purpose of operating the Application, to ensure Your compliance with this Agreement or to comply with applicable law or the order or requirement of a court, administrative agency or other governmental body. Company reserves the right, at any time and without prior notice, to remove or disable access to any content that Company, at its sole discretion, considers to be in violation of this Agreement or otherwise harmful to the Application.

You agree that in the event of an actual or threatened breach of this Section by You, Company will have no adequate remedy at law and will be entitled to immediate and injunctive and other equitable relief, without bond and without the necessity of showing actual money damages.

## **6. ACCOUNT SECURITY**

Registration for the Application requires a valid, working e-mail address, phone number, first and last name, and/or other information in order to initially sign up for access to and use of the Application. Additionally, You are required to provide a valid, working email address and password to access and use the Application (collectively, Your "Credentials"). You are required to use commercially reasonable efforts to maintain and promptly update Credentials to maintain its accuracy, and Company is not responsible for the accuracy of the information. You shall (a) maintain the strict confidentiality of Your Credentials, (b) not allow another person to use Your Credentials to access the Application, (c) be responsible for any and all damages or losses that may be incurred or suffered as a result of any activities that occur under Your Credentials. You agree to immediately notify Company in writing by email to Support@navihealth.com of any unauthorized use of Your Credentials or any other breach of security. Company is not and shall not be liable for any harm arising from or relating to the theft of Your Credentials, Your disclosure of Your Credentials or the use of Your Credentials by another person or entity. Any attempt to obtain unauthorized access, or to exceed authorized access, to the Application shall be considered a trespass and computer fraud and abuse, punishable under state and federal laws. Company hereby notifies You that any or all communications with the Application may be monitored, captured, recorded and transmitted to the authorities as deemed necessary by Company in its sole discretion and without further notice.

## **7. FEEDBACK; DATA USE**

Company may provide You with a mechanism to provide feedback, suggestions and ideas, if You choose, about its products and services ("Feedback"). Feedback shall be provided by You and received by Company on a non-confidential basis, except to the extent that such Feedback includes Customer's trademarks or service marks. Feedback shall become the exclusive property of Company. You agree that Company may, in its sole

discretion, use the Feedback You provide to Company in any way on an unrestricted basis, including in future modifications of the Application or in other Company products or services. You hereby grant Company a perpetual, worldwide, irrevocable, fully-paid, royalty-free, sublicenseable and transferable license to use, modify, create derivative works from, distribute, display, and otherwise exploit the Feedback for any purpose.

By accessing or using the Services Applications, You agree that Company may collect data in connection with or regarding Your access to or use of the Application. Such data may be collected for all reasonable business purposes which may include, but is not limited to, evaluating and improving the performance and usability of the Application, creation or development of new or other Application or products, as well as providing reports and feedback on the usage of Application.

## **8. UPDATES**

Company may from time to time in its sole discretion develop and provide Application updates, which may include upgrades, bug fixes, patches and other error corrections and/or new features (collectively, including related documentation, "Updates"). Updates may also modify or delete in their entirety certain features and functionality. You agree that Company has no obligation to provide any Updates or to continue to provide or enable any particular features or functionality. Based on Your device settings, when Your device is connected to the internet either: (a) the Application will automatically download and install all available Updates; or (b) You may receive notice of or be prompted to download and install available Updates. You shall promptly download and install all Updates and acknowledge and agree that the Application or portions thereof may not properly operate should You fail to do so and Company shall not have any liability arising therefrom. You further agree that all Updates will be deemed part of the Application and be subject to all terms and conditions of this Agreement.

## **9. THIRD-PARTY MATERIALS**

The Application may display, include or make available third-party content or provide links to third-party websites or services (collectively, "Third-Party Materials"). You acknowledge and agree that Company is not responsible for Third-Party Materials, including their accuracy, completeness, timeliness, validity, copyright compliance, legality, decency, quality or any other aspect thereof. Company does not assume and will not have any liability or responsibility to You or any other person or entity for any Third-Party Materials. Third-Party Materials and links thereto are provided solely as a convenience to You and You access and use them at entirely at Your own risk and subject to such third parties' terms and conditions.

## **10. TERM AND TERMINATION**

The term of this Agreement and the license granted hereunder will commence on the date You indicate Your acceptance of this Agreement and will continue until You either stop using the Application or Your rights to use the Application are terminated by Customer or Company revoking Your authorization as described below.

Company may terminate this Agreement at any time without notice. In addition, if You violate any of the terms and conditions of this Agreement, Company may immediately and automatically terminate this Agreement and/or suspend Your access to the Applications without any notice. Upon termination, all rights granted to You under this Agreement will also terminate, and You must cease all use of the Application and delete all copies of the Application from Your device and/or account. 5 (Feedback; Data Use), 9 (Third-Party Materials), 10 (Term and Termination), 12 (Waiver), and any payment obligations incurred by You prior to the effective date of termination shall survive the termination of this Agreement. Termination will not limit any of Company's rights or remedies at law or in equity.

## **11. PRIVACY POLICY**

You agree that any information You provide to Company in connection with Your use and access of the Application shall be governed by the terms set forth herein and Company's Digital Property Privacy Policy,

which is incorporated into this Agreement by reference.

## **12. WAIVER**

No failure or delay by Company in exercising any right or any power hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any right or power hereunder preclude further exercise of that or any other right hereunder. In the event of a conflict between this Agreement and any applicable purchase or other terms, the terms of this Agreement shall govern.

Last Updated: **June 2, 2021**