

Master Services Agreement

This Master Services Agreement (this “**Agreement**”) is effective as of the date this agreement was accepted through the HINT marketplace by Client. This Agreement governs the software-as-a-service offering (“**Service**”) described in an Order in the form of Exhibit A. In consideration of the mutual covenants, terms, and conditions set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

- 1. Access and Use.** (a) Provision of Access. Subject to the terms and conditions of this Agreement and conditioned on Client’s payment of Fees, Vivlio hereby grants Client a limited, non-exclusive, non-sublicensable, non-transferable license to access and use the Service during the Term, solely for Client’s internal business purposes and solely for use by Client’s employees, consultants, contractors, agents including but not limited to referring providers and providers that Client refers to for treatment, and Client’s authorized user patients (i) who are authorized by Client to access and use the Service pursuant to this Agreement; and (ii) for whom access to the Service has been purchased hereunder (“**Authorized Users**”) in accordance with the terms and conditions herein. Such use is limited to Client’s use as a paying subscriber, for treatment purposes by clinicians with a valid NPI. Each party agrees to the Business Associate Agreement (“BAA”) which can be found here as Exhibit B (www.vivliohealth.com/BAA). (b) Use Restrictions; Reservation of Rights; Suspension. Client shall not use the Service for any purposes beyond the scope of the access granted in this Agreement. Vivlio Health and its licensors retain exclusive ownership of the Service and related deliverables and all worldwide intellectual property rights therein. Client shall not, and shall not permit its Authorized Users to, (i) assign, sublicense, transfer, or resell the Service or related deliverables to any third-party nor allow any third-party to access or use the Services except as expressly provided herein; (ii) copy, modify, reverse engineer, disassemble, decompile, decode, access software components, or create derivative works of the Service; (iii) remove any proprietary notices from the Service; or (iv) use the Service in any manner that violates applicable law of this Agreement or infringes upon any intellectual property rights of any person or entity. Vivlio reserves all rights not expressly granted to Client in this Agreement. Except for the limited rights and licenses expressly granted under this Agreement, nothing in this Agreement grants, by implication, waiver, estoppel, or otherwise, to Client or any third party any intellectual property rights or other right, title, or interest in or to the Vivlio IP. Vivlio may suspend Client’s and any Authorized User’s access to the Services if (i) Vivlio reasonably determines that there is a threat or attack on any of the Vivlio IP; (ii) Client’s or any Authorized User’s use of the Vivlio IP disrupts or poses a security risk to the Vivlio IP or to any other Client or third party partner of Vivlio; or (iii) Client or its Authorized User is using the Vivlio IP for fraudulent or illegal activities or for any use outside of treatment purposes. (c) Aggregated Statistics and De-Identified Data. Aggregated Statistics” means data and information related to Client Data, including but not limited to performance statistics, benchmarking data, and other de-identified health information as further described in this section that is used by Vendor in an aggregate and anonymized manner. Vendor may use protected health information and other information received from Client and Client’s Authorized Users to create de-identified health information in accordance with HIPAA to i) perform the Services and ii) for any other purpose permitted by applicable law. As between Vendor and Client, all right, title, and interest in de-identified data and other Aggregated Statistics created under this Agreement, the compilation of Aggregated Statistics created under this Agreement with de-identified data Vendor receives from third party data sources, and all intellectual property rights therein, belong to and are retained solely by Vendor. This paragraph shall survive expiration or termination of this Agreement. (d) HIPAA Covered Entity. Some EMRs require that entities be covered under the HIPAA statute of 1996. To enable HIPAA covered status, clients must submit at least one HIPAA covered transaction. If client is not a HIPAA covered entity and has not submitted a HIPAA covered transaction, Client authorizes Vivlio to act as its authorized agent for this express purpose and to submit at least one or more eligibility transactions to enable HIPAA covered status for Customer. Customer acknowledges that by this authorization and subsequent transaction(s), that it will be subject to the privacy and security regulations under the HIPAA statute.
- 2. Client Responsibilities.** Client is responsible and liable for all uses of the Service resulting from access provided by Client to Authorized Users, directly or indirectly and is responsible for all acts and omissions of Authorized Users. Client represents and warrants that (i) it is authorized to use and disclose Client’s data submitted to the Service; and (ii) its Authorized Users shall comply with the End User License Agreement or other terms of use (collectively “Terms of Use”) published by Vivlio Health on its website or within the Service (www.vivliohealth.com/terms-of-use). Any act or omission by an Authorized User that would constitute a breach of this Agreement if taken by Client will be deemed a breach of this Agreement by Client. Vivlio may from time to time make third-party products available to Client (“Third Party Products”). Any Third Party Products included in an Order are subject to the applicable third-party terms and conditions.
- 3. Fees.** Client shall pay Vivlio the fees as set forth in an Order (“Fees”) without offset or deduction. Client shall make all payments hereunder on or before the due date set forth in an Order. Vivlio may suspend Client’s access to the Service if Client fails to timely pay any amount due. Fees shall continue to accrue during any such suspension. Fees are net of all sales, use, or other taxes or duties (other than taxes based on the income of Vivlio). Client shall indemnify and hold Vivlio harmless from and against any such taxes.
- 4. Confidential Information.** Neither party shall use or disclose the other party’s confidential or proprietary information, including but not limited to business information or price lists, Vivlio IP, and other sensitive information that by its nature would be reasonably deemed confidential (“Confidential Information”) for any purpose beyond the scope of Section 1(a), except that each party may disclose Confidential Information to the limited extent required (i) in order to comply with the order of a court or other governmental body or as otherwise necessary to comply with applicable law, provided that the party making the disclosure pursuant to the order shall first give written notice to the other party and make a reasonable effort to obtain a protective order for such Confidential Information. Notwithstanding the foregoing, Client acknowledges and agrees that Vivlio may analyze aggregated and anonymized client data and usage of the Service (“Analytic Data”) and use Analytic Data for product support and development, benchmarking, and administrative purposes. Confidential Information does not include information that is (a) in the public domain; (b) known to the receiving party prior to the disclosure; (c) lawfully obtained by the receiving party from a third party; or (d) independently developed by the receiving party without

use of the Confidential Information. Each party will be entitled to enforce its rights pursuant to this section by seeking appropriate equitable relief including temporary restraining order and injunction. Notwithstanding anything to the contrary, De-identified Data is not Confidential Information.

- 5. Intellectual Property Ownership.** Client acknowledges that, as between Client and Vivlio, Vivlio owns all right, title, and interest, including all intellectual property rights in and to the Vivlio software and Services, Analytic Data, Vivlio Confidential Data, feedback from Client including but not limited to communications and suggestions or materials to Vivlio recommending changes to the Service or new features or functionality relating thereto, and any and all intellectual property provided to Client or any Authorized User by Vivlio in connection with the Services (“Vivlio IP”). With respect to Third Party Products, the applicable third party owns all right, title, and interest, including all intellectual property rights in and to the Third-Party Product.
- 6. Limited Warranty; Disclaimer.** VIVLIO IP IS PROVIDED “AS IS” AND VIVLIO HEREBY DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE. VIVLIO SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NON-INFRINGEMENT, AND ALL WARRANTIES ARISING FROM COURSE OF DEALING, USAGE, OR TRADE PRACTICE. VIVLIO MAKES NO WARRANTY OF ANY KIND THAT VIVLIO IP OR ANY PRODUCTS OR RESULTS OF THE USE THEREOF WILL MEET CLIENT OR ANY PERSON’S REQUIREMENTS, OPERATE WITHOUT INTERRUPTION, ACHIEVE ANY INTENDED RESULT, BE COMPATIBLE OR WORK WITH ANY SOFTWARE, SYSTEM, OR OTHER SERVICES, OR BE SECURE, ACCURATE, COMPLETE, FREE OF HARMFUL CODE, OR ERROR FREE.
- 7. Indemnification.** Vivlio shall indemnify, defend, and hold harmless Client from and against any and all actual and direct damages, losses, liabilities, and costs incurred by Client resulting from any third-party claim, suit, action, or proceeding (“Third-Party Claim”) that the Service or use of the Service pursuant to the Agreement infringes upon such third party’s intellectual property rights, provided that Client promptly notifies Vivlio in writing of the claim, cooperates with Vivlio, and allows Vivlio sole authority to control the defense and settlement of such claim. This Section 7 will not apply to the extent that the alleged infringement arises from: (A) Client’s use of the Service in combination with data, software, hardware, equipment, or technology not provided by Vivlio or authorized by Vivlio in writing; (B) Client data; or (C); Client modifications to the Service. Client shall indemnify, hold harmless, and, at Vivlio’s option, defend Vivlio from and against any Losses resulting from (i) any Third-Party Claim that Client data or any use of Client data in accordance with this Agreement infringes or misappropriates such third-party’s intellectual property or privacy rights; (ii) Client’s or any Authorized User’s negligence or willful misconduct or use of the Service in a manner not authorized by this Agreement; (iii) use of the Service in combination with data, software, hardware, equipment, or technology not provided by Vivlio or authorized by Vivlio in writing; or (iv) modifications to the Services not made by Vivlio.
- 8. Limitations of Liability.** IN NO EVENT WILL EITHER PARTY BE LIABLE TO THE OTHER UNDER ANY LEGAL OR EQUITABLE THEORY (WHETHER BREACH OF CONTRACT, TORT INCLUDING NEGLIGENCE, STRICT LIABILITY, OR OTHERWISE) FOR ANY INDIRECT, CONSEQUENTIAL, INCIDENTAL, SPECIAL, PUNITIVE OR EXEMPLARY DAMAGES, OR LOST PROFITS OR REVENUES OR GOODWILL, EVEN IF THE OTHER PARTY HAS BEEN ADVISED OF THE POSSIBILITY THEREOF OR IF SAME WERE REASONABLY FORESEEABLE. IN NO EVENT WILL VIVLIO’S AGGREGATE LIABILITY FOR ANY AND ALL CLAIMS ARISING OUT OF OR RELATED IN ANY WAY TO THIS AGREEMENT OR SERVICE EXCEED THE TOTAL AMOUNTS PAID TO VIVLIO UNDER THIS AGREEMENT IN THE THREE (3) MONTHS PERIOD PRECEDING THE EVENT GIVING RISE TO THE CLAIM.
- 9. Termination.** Either party may terminate this Agreement, effective on written notice to the other party, if the other party materially breaches the Agreement, and such breach: (A) is incapable of cure; or (B) being capable of cure, remains uncured 30 days after the non-breaching party provides the breaching party with written notice of such breach.
- 10. General Provisions.** (a) Entire Agreement; Precedence. This Agreement, together with the incorporated Exhibits, Terms of Use, and Orders, constitutes the sole and entire agreement of the parties with respect to the subject matter hereof. No amendment to or modification of this Agreement is effective unless signed in writing by authorized representatives of both parties. If any term or condition of this Agreement conflicts with the terms and conditions of an Order or the BAA, the order of precedence is: (i) the terms of this Agreement with respect to Limitation of Liability and Indemnification; (ii) the terms of the Order with respect to the Service under the Order; (iii) the BAA to the extent necessary to comply with the HIPAA portions of the BAA; and (iv) the remaining terms of the Agreement. (b) Notices. Any notice which is required or may be given hereunder shall be deemed given when delivered on a business day in person, by fax, or by national courier with fees prepaid, or five days after deposit, properly addressed, postage prepaid, in the U.S. Mail to the address listed below the signatures to this Agreement. (c) Miscellaneous. This Agreement is governed by the laws of the State of Georgia without giving effect to any conflict of law provisions. The exclusive venue for any legal suit, action, or proceeding arising out of or related to this Agreement shall be the federal or state courts located in the County of Fulton, Georgia. If any provision of this Agreement is invalid, illegal, or unenforceable in any jurisdiction, such invalidity, illegality, or unenforceability will not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction. Neither party shall be in default by reason of any failure in performance of this Agreement other than payment obligations due to a cause beyond its reasonable control. No waiver of a breach or default hereunder shall constitute a waiver of another subsequent default or breach or establish a course of dealing for purposes of modifying this Agreement. Neither party may assign its rights and obligations under this Agreement without prior written approval of the other; provided, however, that either party may assign this Agreement to an affiliate of such party or to any successor to or purchaser of all or substantially all of such party’s business or assets upon written notice to the other party. Subject to the foregoing, this Agreement shall be binding upon and inure to the benefit of the parties and their respective successors and permitted assigns. Sections 1, 2, 3, 6, 8, and 10, and any provisions intended by their nature to survive, shall survive termination of this Agreement.

1. Services and Fees. Vivlio agrees to provide Services and Client agrees to remit payment for the following:
- a. Vivlio Clinical Exchange Module
 - b. \$2.00 per search for 1 year lookback time period
 - c. Client agrees to the Electronic Network Services agreement available at <https://vivliohealth.com/electronic-networks/>
2. Term. The initial term of the Agreement begins on the Effective Date and will continue in effect for 30 days from the Go Live Date (the “[**Initial**] Term”). Go Live Date is the first live electronic search on the Vivlio Health platform. This Agreement will automatically renew for 30 days unless earlier terminated pursuant to this Agreement’s express provisions, or upon either party’s written notice of non-renewal 30 days prior to the expiration of the then-current term (each a “[**Renewal**] Term” and together with the Initial Term, the “[**Term**]”).