

**License and Services Agreement**  
**Terms and Conditions Applicable to Third Party Service**

**IMPORTANT - PLEASE READ CAREFULLY THE TERMS BELOW**

1. **License and Services Agreement Terms.** Unless otherwise modified in this Terms and Conditions Applicable to Third Party Service ("Addendum"), the terms and conditions of the License and Services Agreement (including all Exhibits and Attachments thereto) (the "Agreement") shall continue to govern the rights and obligations between the Licensee and CureMD. Any terms of the Agreement which are not in conflict with provisions of this Addendum shall act to supplement the terms of this Addendum for the provision of the Services contemplated herein.
2. **Third Party Terms.** The terms and conditions set forth in this Addendum apply to use by Licensee of various Third Party Services and are required by the third parties that provide such services. Capitalized terms used but not defined in these terms and conditions shall have the meaning ascribed to such terms in the License and Services Agreement.
3. **Acuant, Inc.**
  - 3.1. **"OCR Services"** means the provision of optical character recognition services available through the Hosted Programs provided by Acuant, Inc., an independent third party.
  - 3.2. **Access and Use.** The Licensee shall access and use the OCR Services through a license key on a single mobile device or a scanner or twain-compatible device. Licensee shall ensure that the twain-compatible device is compatible with the OCR Services.
4. **American Medical Association - CPT Data.**
  - 4.1. **CPT Product.** This section applies to use of any Programs and Services that include access to the master database of the AMA CPT Codes in electronic form ("CPT Product") and is required by the AMA. Capitalized terms used but not defined in this Section 4 shall have the meaning ascribed to such terms in the Agreement.
  - 4.2. **Grant of Rights, Restrictions and Obligations.**
    - i. The CPT Products is licensed from the AMA.
    - ii. The AMA grants non-transferable, non-exclusive license, to access and use the CPT Product for the sole purpose of internal use by Licensee in the territory of the United States and in the English Language.
    - iii. The Licensee is prohibited from publishing, distributing via the internet or other public computer based information system, creating derivative works (including translating), transferring, selling, leasing, licensing or otherwise making available to any unauthorized party the CPT Product, or a copy or portion of CPT Product.
    - iv. The provision of updated CPT Products in the Programs and Services is dependent on continuing contractual relationship between CureMD and the AMA.
    - v. The Licensee must ensure that anyone with authorized access to the Programs and Services will comply with the provisions of this Section 2.
  - 4.3. **Users.**
    - i. The "Users" of CPT Products are defined as follows:
      - a. accesses, uses, or manipulates CPT Products and/or AMA's version of ICD-10-CM/PCS and/or AMA's version of HCPCS, as applicable, contained in the Programs and Services; or
      - b. accesses, uses, or manipulates the Programs and Services to produce or enable an output (data, reports, or the like) that could not have been created without the CPT Products, embedded in the Programs and Services(s) even though CPT Products may not be visible or directly accessible; or
      - c. makes use of an output of the Programs and Services that relies on or could not have been created without the CPT Products embedded in the Programs and Services even though CPT Products may not be visible or directly accessible.



- ii. The Licensee shall accurately calculate Users as defined above, or as otherwise advised by CureMD, and report to CureMD the accurately calculated number of Users of CPT Products, as contained in each Programs and Services.

4.4. Copyright. CPT is copyrighted by the AMA and that CPT is a registered trademark of the AMA.

4.5. U.S. Government Rights. The Programs and Services includes CPT which is commercial technical data, which was developed exclusively at private expense by the American Medical Association (AMA), 330 North Wabash Avenue, Chicago, Illinois 60611. The AMA does not agree to license CPT to the Federal Government based on the license in FAR 52.227-14 (Data Rights - General) and DFARS 252.227-7015 (Technical Data - Commercial Items) or any other license provision. The AMA reserves all rights to approve any license with any Federal agency.

4.6. Miscellaneous.

- i. CPT Products as contained in the Programs and Services are provided “as is” without any liability to CureMD or the AMA, including without limitation, no liability for consequential or special damages, or lost profits for sequence, accuracy, or completeness of data, or that it will meet the Licensee’s requirements, and that the AMA’s sole responsibility is to make available to CureMD replacement copies of the CPT Products if the data is not intact; and that the AMA disclaims any liability for any consequences due to use, misuse, or interpretation of information contained or not contained in CPT Products.
- ii. AMA shall be a third-party beneficiary of the License and Services Agreement.
- iii. The Licensee grants CureMD permission to provide the AMA with Licensee’s name.

## 5. **Surescripts**

5.1. Definitions.

- i. “Applicable Law” means any and all applicable federal, state, local, common law, rules, regulations, directives, and guidelines, including but not limited to the Health Insurance Portability and Accountability Act (“HIPAA”) and related regulations; the Health Information Technology for Economic and Clinical Health Act (“HITECH”) and related regulations; the Anti-Kickback provisions of the Social Security Act and related regulations; the federal Physician Self-Referral Prohibition provisions of the Social Security Act and related regulations; state and federal pharmacy laws and regulations; and state and federal laws and regulations regarding breach notifications.
- ii. “Data Source” means all PBM Data Sources and Pharmacy Data Sources.
- iii. “Downstream Entity” means any agent, subcontractor, or other, except for a Covered Entity (as defined under HIPAA), that receives or creates Private Information from or for the Licensee.
- iv. “Participants” means all certified aggregators, certified VARs, Data Sources, prescribers, health care providers, and facilities, technology vendors, and other entities and individuals that have entered into written agreements with Surescripts, either directly or indirectly, in order to access, provide, or communicate through the Surescripts network.
- v. “PBM Data Source” means a pharmacy benefit manager (“PBM”), health benefit payor or administrator, or other similar entity which has entered into a written agreement with Surescripts to allow access through the Surescripts network to information in its possession.
- vi. “Pharmacy Data Source” means a pharmacy, pharmacy chain, or certified aggregator that aggregates information on behalf of pharmacies, or other similar entity which has entered into a written agreement with Surescripts to allow access through the Surescripts network to information in its possession.
- vii. “Prescriber End User” means an individual, located in the United States or a United States territory, that: (1) is employed by, an active member of the medical staff of, or otherwise performing healthcare services as a legally authorized representative of an Licensee; and (2) if required by Applicable Law to be licensed, registered, or



otherwise authorized by a Governmental authority, is properly and duly licensed, registered, or otherwise authorized with the appropriate Governmental authority to perform the applicable healthcare services.

- viii. "Private Information" means: (i) Protected Health Information ("PHI"), as defined under HIPAA and related regulations, created or received on behalf of, or received from Surescripts; (ii) Nonpublic Personal Financial Information and, as applicable, Nonpublic Personal Health Information, as defined by the Gramm-Leach-Bliley Act; or (iii) any data or information that: (1) relates to an individual, and (2) identifies or can reasonably be believed to form the basis for identifying an individual (such as, but not limited to, an individual's name, postal address, e-mail address, telephone number, date of birth, Social Security number, driver's license number, financial account number, or any other unique identifier), in each case, that is provided to CureMD or to Licensee.
- ix. "Surescripts Data" means any data or information relating to Surescripts, or its services or operations, provided to CureMD and/or its Prescriber End Users by or on behalf of Surescripts, including statistics collected by Surescripts regarding transactions processed by the Surescripts network.
- x. "Surescripts Materials" means the Surescripts certification and implementation guides, the Surescripts network certification requirements document, the Surescripts network operations guide, the Surescripts style and usage guide, the directory guide, and other materials that Surescripts provides to CureMD to enable its participation in the Surescripts network for the Surescripts Services, as such materials may be further developed or modified by Surescripts.
- xi. "Surescripts network" means the Surescripts proprietary technology for a secure, nationwide, interoperable health information infrastructure, including Surescripts Materials, interfaces, functionality, and transaction maps, as they may be further modified or developed by Surescripts from time to time.
- xii. "Surescripts Services" means the electronic prescription functionality and clinical interoperability functionality, Prescription Routing Services and Medication History and Prescription Benefit Services, in either case, which is accessible through the Hosted Programs, and in each case is provided by Surescripts, LLC, an independent third party.

## 5.2. Certification and Compliance.

- i. Prohibition on Reconfiguration by Licensee and their Prescriber End Users. Licensee shall ensure that any software that has e-prescribing modules will not be reconfigured the Licensee and their Prescriber End Users.
- ii. Changes Required by Applicable Law. If Surescripts makes any addition or modification to the Surescripts network in order to comply with Applicable Law, Licensee shall adopt any and all corresponding additions or modifications required as a result of the change to the Surescripts network within the earlier of: (i) six (6) months after the date of Surescripts / CureMD's sending of written notice of such change to Licensee; or (ii) such time period required by Applicable Law.
- iii. Changes Required by Surescripts. If Surescripts makes any addition or modification to the Surescripts network that is not required to comply with Applicable Law, Licensee shall adopt any and all corresponding additions and modifications required as a result of the change to the Surescripts Services within: (i) six (6) months after the date of Surescripts / CureMD's sending of written notice of such change to the Licensee or (ii) such later date as specified by Surescripts.
- iv. Failure to Add or Modify. Licensee's failure to adopt any required additions or modifications, whether or not required by Applicable Law, within the applicable time period set forth in Section titled Changes Required by Applicable Law and Changes Required by Surescripts shall not in itself be a breach, but Surescripts may, as a consequence, cease providing the Surescripts Services to Licensee until such time as Licensee has made, or used reasonable commercial efforts to require to be made, to adopt such additions or modifications.
- v. Decertification. Notwithstanding anything herein to the contrary, Surescripts retains the right to decertify a Prescriber End User's version of the software at any time, upon Surescripts' provision of written notice to CureMD,



at any time upon a good faith showing that such software is not compatible with: (i) the Surescripts network; (ii) patient safety; (iii) the certification requirements set forth in the Surescripts Materials; or (iv) the terms and conditions hereunder, including the Commercial Messaging Rules.

- vi. Data Source Licensee understands and accepts that each Data Source connected to the Surescripts network has the right to require Surescripts to suspend transactions to that Data Source from any particular vendor, including the Licensee, and that Surescripts must comply with such requests.

### 5.3. Access to and Participation in the Surescripts Network.

- i. Message Transmission in General. Licensee shall conduct identity proofing and authentication sufficient to meet regulatory requirements and industry standards to Surescripts' reasonable satisfaction to confirm that all messages transmitted via the Surescripts network originate from Prescriber End User who are licensed to use the application for the service(s) for which Surescripts has certified the application, and who are registered with CureMD.
- ii. Commercial Messaging Rules. Licensee and Prescriber End User shall comply with the following "Commercial Messaging Rules":
  - a. General Limitation. Licensee shall not, and ensure that its Prescriber End User do not, use any means, program, or device, or permit any other person to use any means, program, or device, including, but not limited to, advertising, instant messaging, and pop-up ads, to influence or attempt to influence, through economic incentives or otherwise, the prescriber's decision to prescribe a certain pharmaceutical or direct a patient to a certain pharmacy at the place and time that a prescriber or his/her agent is in the act of prescribing a pharmaceutical for a patient if: (i) such means, program, or device (as described above) is triggered by, initiated by, or is in specific response to, the input, selection, and/or act of a prescriber or his/her agent prescribing a pharmaceutical or selecting a pharmacy for a patient; and (ii) that prescription shall be delivered via the Surescripts network.
  - b. Exceptions to General Limitation. Notwithstanding the above General Limitation, Licensee may: (A) show information regarding a payer's formulary and benefit plan design, including patient lowest cost options, on/off tier, prior authorization, step therapy, coverage status, and co-pay information; and/or (B) deliver or have delivered to Prescriber End Users clinical alerts that are sourced from payers and/or are attributed to generally recognized and reputable sources providing clinical information to the prescriber, even if, in the event of either (A) or (B), such information influences the patient or prescriber's choice of pharmacy or other prescribing decisions. Any custom lists created and maintained by Prescriber End Users within the Hosted Programs or Third Party Services, including but not limited to: (i) an individual Prescriber End Users most often prescribed medication list; (ii) an individual Prescriber End User most often used pharmacy list; and/or (iii) an individual Prescriber End User most often used SIGs (i.e., instructions for the use of medications), would not be considered a violation of this Section.
  - c. Effect of Violation of the Commercial Messaging Rules. Any violation of this Section shall be deemed a material breach of this Agreement, and Surescripts shall have a right of termination.

### 5.4. Licensee Responsibilities.

- i. Designation of Prescriber End Users. Licensee shall ensure that the person designated to access and use of the Surescripts network and Surescripts Services (i) qualifies as a Prescriber End Users, and (ii) satisfies ongoing identity-proofing and other requirements set forth in hereunder.
- ii. Licensee and Prescriber End User Responsibilities. Licensee and Prescriber End User access and utilize the Surescripts network only in accordance with the terms and conditions hereunder:
  - a. Confidentiality. Licensee shall keep confidential any data or information relating to Surescripts or Participant of which it becomes aware in connection with the use of the Hosted Programs
  - b. Audit by Surescripts. Licensee shall allow CureMD and/or Surescripts to access, inspect, and audit records of the Licensee relating to the use of the Surescripts network, Surescripts Data, and data or information provided by Participants.



- c. Patient Consent and Authorizations. Licensee shall ensure that all patient consents and/or authorizations required by Applicable Law have been obtained. In particular, and without limiting the foregoing, Licensee shall obtain the consent of the patient prior to requesting medication history for such patient.

Licensee shall comply with any privacy and patient consent policies of Surescripts or any Data Sources related to the delivery of Private Information as may be published by Surescripts from time to time, which policies shall be considered part of the Surescripts Materials.

- 5.5. Satisfactory Background Checks. Licensee warrants and represents that Licensee has obtained, at Licensee's own expense and in a manner compliant with all Applicable Law, a Satisfactory Background Screening, as defined below, for all of its employees and contractors whose job descriptions or functional duties require or contemplate access (other than incidental or infrequent access) to any Private Information ("Licensee Personnel"). As used herein, a "Satisfactory Background Screening" shall mean, collectively, the following: (1) national federal criminal database check; (2) seven (7)-year county of residence criminal conviction search (i.e., search of all counties in which individual has resided within the preceding seven (7) year period); and (3) in each of (1) and (2) above, containing no felony or misdemeanor conviction that related to fraud or theft (including but not limited to, shoplifting, larceny, embezzlement, forgery, credit card fraud, or check fraud), the disposition of which is within seven (7) years, as allowed by law. Upon written notice to Licensee, Surescripts or CureMD may reasonably modify the foregoing guidelines, subject to Applicable Law, in conformance with the then-prevailing industry best practices. Licensee agrees to update such Satisfactory Background Screening upon reasonable request by Surescripts, it being agreed that any request based upon the occurrence of any security incident or other illegal activity involving Licensee or Licensee personnel, or the reasonable suspicion of illegal activity involving any data provided hereunder, or any regulatory requirements requiring such updates, would be deemed reasonable hereunder. Licensee agrees to impose a similar requirement for background checks as contemplated herein on any Downstream Entities. Licensee agrees that in the event that any Downstream Entity refuses or fails to perform such background checks as contemplated herein, Licensee shall not provide to such Downstream Entity any Private Information from Surescripts. Promptly upon written request, Licensee shall verify in writing its compliance with the foregoing requirements by providing Surescripts or CureMD with a written affidavit signed by an executive officer of Licensee, certifying that CureMD has obtained Satisfactory Background Screening checks with respect to all Licensee personnel with access to Private Information in accordance with the terms hereunder.
- 5.6. Suspension by Surescripts for Breach by Licensee. Surescripts may suspend use of the Surescripts network (with no cure period) on behalf of a Licensee if: (i) such Licensee is not duly licensed or authorized under Applicable Law to use Hosted Programs or Third Party Services for which Surescripts has certified the application; or (ii) an act or omission of such Licensee would (if it were an act or omission of CureMD) constitute a material breach of this Agreement. Such suspension shall be effective upon Surescripts' delivery of written notice of such act or omission to CureMD, which notice CureMD shall forward to the Licensee within five (5) days of CureMD's receipt thereof.
- 5.7. Use of Data by Surescripts. Subject to compliance with all Applicable Law (including, without limitation, all laws regarding the protection of PHI as defined under HIPAA), Surescripts shall be entitled to use and disclose information received from CureMD, Licensee or Prescriber End Users for the purpose of Surescripts' business. The provisions of this Section shall survive the expiration or termination, for any reason, of this Agreement.

Surescripts may share CureMD, Licensee and Prescriber End User data with other Data Sources to the extent necessary to fulfill the terms and conditions of this Agreement.

- 5.8. Safeguarding Data. Licensee shall establish and maintain safeguards against the destruction, loss, or alteration of Surescripts Data or Participant Data that are no less rigorous than those maintained by CureMD for its own information of a similar nature, but no less than reasonable safeguards. Licensee shall have in place appropriate administrative, technical, and physical safeguards to protect the privacy of Private Information. Licensee shall reasonably safeguard Private Information from any intentional or unintentional use or disclosure that is in violation of the Privacy Rule of HIPAA, and limit incidental uses or disclosures made pursuant to otherwise permitted or required disclosures.



5.9. Surescripts network Feedback. If Licensee provides any ideas, advice, recommendations, evaluations, representations of needs, proposals, improvements, or the like relating to the Surescripts network ("Surescripts network Feedback"), Licensee hereby irrevocably and unconditionally grants and assigns, and shall grant and assign, to Surescripts all right, title and interest, including all intellectual property rights, in and to all such Surescripts network Feedback.

5.10. Warranties/Covenants.

i. By Surescripts.

a. Surescripts network. The Surescripts network is provided "as is" and without warranties. ALL WARRANTIES AND REPRESENTATIONS OF ANY KIND WITH REGARD TO THE SURESCRIPTS NETWORK ARE HEREBY DISCLAIMED, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. Surescripts does not warrant that the Surescripts network will meet CureMD's requirements or that they will operate without interruption or be error free.

b. Surescripts Services. Surescripts agrees to use commercially reasonable efforts at all times to provide prompt and efficient service and to maintain its own equipment, proprietary systems and programs; Surescripts, however makes no warranties or representations regarding the Surescripts network. Surescripts shall use due care in processing all work submitted to it by CureMD and agrees that it will, at its expense, use commercially reasonable efforts to correct, as promptly as practicable, any errors to the extent that such errors are due to the malfunction of Surescripts computers, operating systems, or programs or errors by Surescripts employees or agents. Correction shall be limited to identifying errors and retransmitting the message or messages affected by any errors. Surescripts shall not be responsible in any manner for errors or failures of proprietary systems and programs of third parties, nor shall Surescripts be liable for errors or failures of CureMD's software or operational systems not caused by the Surescripts network. Should there be any failure in performance or errors or omissions with respect to the information being transmitted, Surescripts responsibility shall be limited to using commercially reasonable efforts to correct such failure in performance or errors or omissions.

LICENSEE HEREBY WAIVES ALL WARRANTIES, EXPRESS, IMPLIED, OR STATUTORY INCLUDING, BUT NOT LIMITED TO, ANY WARRANTY OR MERCHANTABILITY OR FITNESS FOR USE FOR A PARTICULAR PURPOSE.

5.11. By Licensee.

i. Prescriber Authorizations. Licensee and Prescriber End User represents and warrants to Surescripts and CureMD that it has obtained all necessary authorizations required for Surescripts to use all information provided by Licensee.

5.12. DISCLAIMERS AND CERTAIN ASSOCIATED RESPONSIBILITIES

i. In General. All disclaimers set forth throughout this Agreement shall survive termination or expiration of this Agreement.

ii. Availability of Data Sources. Surescripts makes no representation or warranty regarding the availability through the Surescripts network of any particular Data Source or other Participant in the Surescripts network. At any time, Data Sources or other Participants in the Surescripts network may be added to or deleted from the Surescripts network or may limit Licensee access to their data, such changes may occur without prior written notice.

iii. Limitations of the Surescripts network. Surescripts uses available technology to match patient identities in order to provide the Surescripts Services. Because patient information is maintained in multiple places, not all of which are accessible to Surescripts, and because not all patient information is kept in a standard fashion or is regularly updated, it is possible that false matches may occur or that there may be errors or omissions in the prescription benefit and/or medication history information provided pursuant to the Services. Therefore, it is the responsibility of any treating physician or other health care provider or facility (not the responsibility of Surescripts) to verify prescription benefit or medication history information through other means with each patient and/or the patient's representatives before such information is relied upon or utilized in diagnosing or treating the patient. Surescripts is not a health plan, health care provider or prescriber. Surescripts does not and cannot independently verify or review the information transmitted through the Surescripts network for accuracy or completeness. Pursuant to the foregoing, Licensee acknowledges that the prescription benefit and medication history information provided hereunder is not complete or accurate, and that neither Surescripts, CureMD nor any Data Source provides any



representations or warranties with respect to the accuracy or completeness of the prescription benefit or medication history information, and Licensee releases and holds harmless Surescripts, CureMD and any person or entity providing prescription benefit or medication history information from any liability, cause of action, or claim related to the completeness or lack thereof of the prescription benefit or medication history information. In addition, Licensee and Prescriber End User shall confirm the accuracy of the prescription benefit and medication history information with his/her/its patient prior to providing any medical services based thereon, and that the Licensee and Prescriber End User shall use his/her/its professional judgment in the provision of care. Licensee, CureMD and Surescripts agree that the Data Sources shall be third-party beneficiaries to the release and hold harmless provisions of this section.

- iv. No Substitution for Written Prescription or Documentation. The Surescripts network is not intended to serve as a replacement for: (i) a written prescription where not approved as such by the appropriate Governmental authorities or where such written prescription is required for record keeping purposes; or (ii) applicable prescription documentation. Use of the Surescripts network is not a substitute for a health care provider's standard practice or professional judgment. Any decision with regard to the appropriateness of treatment, or the validity or reliability of information, is the sole responsibility of a patient's health care provider
- 5.13. Indemnification by Licensee. Licensee agrees to indemnify, defend and hold harmless Surescripts and the Data Sources and their affiliates, officers, directors, employees, agents, successors and assigns from and against any and all actual or threatened losses, liabilities, damages, and claims by third parties, and all related costs and expenses (including reasonable legal fees and disbursements and costs of investigation, litigation, settlement, judgment, interest and penalties) arising from, or in connection with, (i) any breach by Licensee of any confidentiality or privacy obligations, (ii) any misuse of data and/or systems provided by Surescripts, (iii) any loss of connectivity to the Surescripts network due to acts or omissions of Licensee, or (iv) information provided to Surescripts by Licensee, or arising out of the use of such information when furnished by Surescripts Licensee or to other third persons at Licensee's request, or to officers, employees and agents of Licensee.
- 5.14. Limitation of Liability. Except as otherwise provided in this Agreement, all remedies provided for in this Agreement shall be cumulative and in addition to and not in lieu of any other remedies available at law or in equity. NEITHER PARTY SHALL, IN ANY EVENT, BE LIABLE TO THE OTHER PARTY OR TO ANY THIRD PARTY FOR ANY INDIRECT, CONSEQUENTIAL, INCIDENTAL, SPECIAL, EXEMPLARY, OR SIMILAR DAMAGES, ARISING OUT OF OR IN ANY WAY RELATED TO THIS AGREEMENT, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSS OR DAMAGE. Each Party shall use all reasonable efforts to mitigate damages for which the other Party is responsible. The provisions of this Section XIII shall survive any termination or expiration of this Agreement.
- 5.15. Force Majeure. Neither Party shall be liable or deemed in default for failure to fulfill any obligation under this Agreement due to causes beyond its reasonable control. Such causes or conditions shall include, but shall not be limited to, acts of God or of the public enemy, acts of the Government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, shortages of labor or materials, freight embargoes, unusually severe weather, electrical power failures, telecommunication or internet backbone outages, failure of an internet access provider or other similar causes beyond the Parties' control, and neither Party shall be liable for losses, expenses or damages, ordinary, special or consequential, resulting directly or indirectly from such causes.
- 5.16. Subcontractor. If Surescripts failure to provide the Surescripts Services is caused by the default of a subcontractor, and if such default arises out of causes beyond the control of both Surescripts and the subcontractor, Surescripts shall not be liable unless the supplies or services to be furnished by the subcontractor were obtainable from other sources in sufficient time to permit Surescripts to fulfill its obligations hereunder.
- 5.17. Patient Visit/Treatment Event Services. Licensees and Prescriber End User shall not attempt to access these services except, in connection with and in conjunction with the treatment of a specific patient in a scheduled or walk-in outpatient visit or another specific treatment event. Licensees shall not access or attempt to access these services for an inpatient or other acute service or for any institutional service.



- i. Eligibility Status Transaction. Eligibility status transaction allows Licensees to match a patient to his/her pharmacy benefit through a request/response transaction based on X12 270/271 transaction standards.
- ii. Medication History Transaction. Medication history transaction allows Licensee to request medication history for a specific patient utilizing the National Council for Prescription Drug Programs (“NCPDP”) transaction segment syntax then implemented by Surescripts.
- iii. Formulary Coverage Status Transaction. Formulary coverage status transaction allows Licensees to use information on the eligibility status transaction response to request formulary and coverage status for a specific drug for a specific patient utilizing the NCPDP transaction segment syntax then implemented by Surescripts.

## 6. **Dr. First**

### 6.1. Definitions.

- i. “DrFirst Services” shall mean, collectively, the Electronic Prescriptions for Controlled Substances services provided by DrFirst which allows Customers and Authorized End Users to register, identity-proof, perform logical access controls, sign, and send electronic prescriptions for controlled substances.
- ii. “Authorized End User” shall mean any individual health care provider duly licensed to prescribe controlled substances and authorized, by virtue of such individual’s relationship to, or permissions from, a Customer, to access the Integrated Offering pursuant to such Customer’s rights under an arrangement or contract between CureMD and such Customer, which arrangement or contract is subject to this Agreement and who has properly registered with DrFirst.
- iii. “Customer” shall mean physicians, group practices, hospital systems, or other healthcare providers to whom CureMD provides the Integrated Offering for use by Authorized End Users.
- iv. “Integrated Offering” shall mean DrFirst Services provided to Customers and Authorized End Users through the Hosted Programs or Third Party Services.

### 6.2. DrFirst Services Access Rights.

- i. CureMD hereby grants Customers and Customers’ Authorized End Users: (i) a non-exclusive, non-transferable, right to access the features and functions of the Integrated Offering, provided that: (ii) Customer shall have no right to sublicense the Integrated Offering, including the DrFirst Services as integrated therein, to any third party; and (iii) DrFirst shall be a third party beneficiary with rights to enforce the term hereof if necessary.
- ii. DrFirst reserves the right to temporarily suspend any Customer or Authorized End User’s access to the DrFirst Services, subject to a written notice, in order to mitigate any damage resulting from any act or omission of such Customers or Authorized End Users in connection with use of, or access to, the DrFirst Services.

### 6.3. IDP Tokens.

- i. DrFirst shall distribute, or provide to CureMD for distribution, the hard tokens needed for CureMD’s Authorized End Users to utilize the EPCS Gold™ Services. In the event that the Authorized End Users lose their IDP Token or IDP confirmation letter, the following are the replacement fees:
  - a. Replacement Token. If the Identity-Proof (IDP) Token provided by DrFirst to an End User is lost, damaged, or inoperable within the first three (3) months of receipt, DrFirst shall replace the IDP Token at no additional charge. Once the first three (3) months following receipt of the IDP Token have expired, DrFirst will apply a \$25.00 charge each time a Replacement Token is requested.
  - b. Replacement Confirmation Letter. Each time that a replacement IDP Confirmation Letter is requested, DrFirst shall charge a reimbursement fee of \$30.00 for the cost of sending the replacement letter.
  - c. Miscellaneous. All replacement fees may be subject to change based on costs of shipping and/or circumstances reasonably beyond DrFirst’s control in dealing with third party vendors.
- ii. Each Customer or Authorized End User understands and agrees: (i) to retain sole possession of the OTP token, and will not share the login passphrase with any other person; (ii) to not allow any other person to use the OTP token





or enter the login passphrase in order to sign controlled substance prescriptions; (iii) that failure to secure the OTP token, login passphrase, or any biometric information may provide a basis for revocation or suspension of the Authorized End User's registration; (iv) to notify CureMD within one business day of discovery if: (a) The Customer or Authorized End User is contacted by a pharmacy because one or more of my controlled substance prescriptions are displaying the incorrect DEA number; (b) The Customer or Authorized End User discovers that one or more controlled substance prescriptions issued using my DEA number were not consistent with the prescriptions such Authorized End User signed, or were not signed at all; (c) The Customer or Authorized End User's OTP token has been lost, stolen, or the authentication protocol has been compromised in any way; (v) that the Authorized End User is responsible for any controlled substance prescriptions written using such the Authorized End User's two-factor authentication credential; (vi) that such Authorized End User has the same responsibilities when issuing electronic prescriptions for controlled substances as when issuing paper or oral prescriptions; and (vii) to prescribe controlled substances only for legitimate medical purposes.

6.4. Link Application.

- i. Licensee shall obtain any and all consents, opt-ins, and authorizations (including but not limited to those required by HIPAA, the Telephone Consumer Protection Act of 1991, or any applicable state law) from patients required for DrFirst to send Text Messages to patients on behalf of the Licensee. Licensee shall indemnify, defend, and hold DrFirst harmless for any claims, actions, or liabilities against DrFirst arising from a violation of this section.
- ii. Licensee shall ensure that the phone numbers provided for the patients who will receive Text Messages are complete and accurate.

7. Etactics Services.

- 7.1. "Etactics Services" means the provision of electronic data interchange services, and print/mail services available through the Hosted Programs provided by Etactics, Inc. ("Etactics"), an independent third party
- 7.2. The Licensee agrees and understands that Etactics and CureMD will use reasonable efforts to deliver the Etactics\_Services and to compile information gathered from third-party data providers used in the provision of selected services; provided, however, that Licensee accepts all information "as is." Licensee acknowledges and agrees that CureMD and Etactics obtains data from third-party sources, which may or may not be completely thorough and accurate, and that Licensee shall not rely on CureMD or Etactics for the accuracy or completeness of said data. Neither CureMD nor Etactics guarantees the payment from any payer, the receipt of any claim by any payer or that any payer will process or acknowledge any EDI transaction. The Licensee acknowledges that it enters into this Agreement of its own accord and does not do so on the basis of, and does not rely on, any representation, warranty or other provision except as expressly provided herein. Except as provide for herein, all conditions, warranties or other terms implied by statute or common law are hereby excluded to the fullest extent permitted by law.