

CBISA ONLINE™ SUBSCRIBER TERMS AND CONDITIONS

These CBISA Online Subscriber Terms and Conditions (“Terms”) are a legal document that explains your rights and obligations as a subscriber. Please read it carefully.

CBISA Online (“CBISA Online”) is an online service for health care community benefits tracking and reporting offered by Lyon Associates, Inc., an Ohio corporation doing business as Lyon Software (“Lyon”).

Words such as “you” and “your” refer to the legal entity subscribing to CBISA Online, not to any individual employee of the subscriber.

1. REGISTRATION AND ACTIVATION.

You become a subscriber of CBISA Online, and bound by these Terms, when you set up your CBISA Online account and obtain a user name and password.

“Subscription” means your rights to use CBISA Online. Your Subscription allows you to use CBISA Online only for the internal use of one reporting entity, typically one hospital. To use CBISA Online for multiple reporting entities, you must purchase multiple subscriptions. You may not use CBISA Online to provide services for third parties.

Your Subscription allows you access to CBISA Online and certain additional Services (defined in Section 4) under the terms of your Subscription and these Terms.

You are solely responsible for all activity on your Subscription and for the security of your computer system and network. You may create additional user names and passwords for members of your organization as permitted by your Subscription, but you may not otherwise reveal, share or otherwise allow others to use your password or Subscription.

2. DATA PRIVACY, ETC.

You agree to all of the terms and conditions of the Lyon Privacy Policy, which are also incorporated into these Terms. A copy of the Lyon Privacy Policy can be found at www.lyonsoftware.com. By way of example and not of limitation, you agree not to enter data that would permit one to specifically identify any patient, family member, or other individual (except as a contact person for an organization), or anything that may constitute protected health information (“PHI”) under the Health Insurance Portability, Accountability and Accessibility Act of 1996, as amended (“HIPAA”), or may be otherwise restricted under applicable law. If you discover that you have inadvertently entered on CBISA Online any PHI or other personal information restricted under applicable law, you will edit your data to remove it. Lyon does not have a duty to review your data or to remove PHI or other restricted personal information.

3. LICENSES

a. License Terms.

Your Subscription is a limited, terminable, non-exclusive license and right to use CBISA Online during the term of your Subscription according to these Terms. You may not use CBISA Online for any purpose other than the permitted access to the CBISA Online service. In its sole

discretion, Lyon may enhance, update, or otherwise change CBISA Online from time to time. The system requirements to use CBISA Online may change over time.

You may not transfer or assign your Subscription to a third party. You may assign your Subscription to another internal reporting entity, or to an affiliate under common control, upon prior written notice to Lyon.

b. *Ownership.*

All title, ownership rights and intellectual property rights in and to CBISA Online and any and all copies thereof are owned by Lyon. All rights are reserved, except as expressly stated herein. CBISA Online is protected by the copyright laws of the United States, international copyright treaties and conventions and other laws.

c. *Restrictions.*

You may not, in whole or in part, copy, photocopy, reproduce, translate, reverse engineer, derive source code, modify, disassemble, decompile, create derivative works based on, or remove any proprietary notices or labels from CBISA Online or any manuals, newsletters, training materials, or other materials relating to CBISA Online (collectively, "Documentation") without the prior written consent of Lyon.

4. **SERVICES**

As used in these Terms, "Services" refers to any training, technical support, data extraction, or other services provided by or on behalf of Lyon relating to CBISA Online. Some Services are included in your Subscription fee; other Services are optional and provided for an additional charge, as provided below.

The Services included in your Subscription fee include unlimited telephone technical support relating to set-up and operation of CBISA Online during Lyon's normal business hours. Lyon may refer technical support questions relating to hardware or to software not provided by Lyon (such as your operating system or web browser) to your internal information technology department.

Upon your request, you may also obtain additional Services from Lyon, such as on-site or off-site training, or data extraction. Lyon does not guarantee the availability of these additional Services, and Lyon's fees and expenses for such additional Services may change from time to time.

5. **BILLING**

Subscriptions for CBISA Online are invoiced annually, at the then-current annual renewal fee, up to one month before the beginning of each Subscription year. Lyon may change its Subscription initial and renewal fees from time to time, but any changes will take effect only at the beginning of your next renewal term.

Invoices are payable within thirty (30) days after receipt. Payments may be made by company check. All fees are stated in U.S. dollars. Lyon reserves the right to suspend access to CBISA Online for nonpayment upon notice to you.

If your Subscription or the Services are subject to any type of sales or use tax, then Lyon may also charge you for any such taxes unless you provide Lyon with a certificate of exemption. However, you are solely responsible for any applicable sales or use tax applicable to your Subscription or the Services.

6. LIMITED WARRANTIES; DISCLAIMERS; LIMITATION OF LIABILITY

a. *Limited Warranty Regarding Performance.*

Lyon warrants that CBISA Online will perform substantially in accordance with documentation provided by Lyon, as it may exist from time to time.

b. *Limited Warranty Regarding Access.*

Lyon will make reasonable commercial efforts to provide hosting through an appropriately certified third party hosting service. However, Lyon does not guarantee continuous, error-free, virus-free or secure operation and access to CBISA Online. Moreover, Lyon is not responsible for any downtime, errors, viruses, or security issues relating to your hardware or software (for example, your hardware or browser) or your Internet service provider.

c. *Limited Warranty Regarding Noninfringement.*

Lyon warrants that the CBISA Online service, as provided by Lyon and used in accordance with the Terms, does not infringe upon any valid United States patent, copyright, trademark, trade secret, or other proprietary right of any third party.

d. *Disclaimers.*

EXCEPT AS SPECIFICALLY PROVIDED IN THESE TERMS, THE ENTIRE RISK ARISING OUT OF USE OR PERFORMANCE OF CBISA ONLINE, THE DOCUMENTATION, AND SERVICES REMAINS WITH YOU, THE USER. EXCEPT AS SPECIFICALLY PROVIDED IN THESE TERMS, LYON EXPRESSLY DISCLAIMS (I) ANY WARRANTY FOR CBISA ONLINE, THE DOCUMENTATION AND THE SERVICES, AND (II) ANY COMMON LAW DUTIES WITH REGARD TO CBISA ONLINE, THE DOCUMENTATION AND THE SERVICES, INCLUDING DUTIES OF LACK OF NEGLIGENCE AND LACK OF WORKMANLIKE EFFORT. EXCEPT AS SPECIFICALLY PROVIDED IN THESE TERMS, CBISA ONLINE, THE DOCUMENTATION AND THE SERVICES ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS, "WITH ALL FAULTS" AND WITHOUT WARRANTY OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NONINFRINGEMENT. THIS SECTION WILL APPLY TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW.

e. *Limitation Of Liability.*

LYON IS NOT LIABLE FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, PUNITIVE, OR EXEMPLARY DAMAGES, OR ANY OTHER DAMAGES ARISING OUT OF OR IN ANY WAY CONNECTED WITH CBISA ONLINE, THE DOCUMENTATION OR THE SERVICES, OR THE DELAY OR INABILITY TO USE THE SAME, EVEN IN THE EVENT OF FAULT, TORT (INCLUDING NEGLIGENCE), STRICT

LIABILITY, BREACH OF CONTRACT, OR BREACH OF LYON'S WARRANTIES AND EVEN IF LYON HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

LYON'S LIABILITY FOR ANY BREACH OF THESE TERMS IS LIMITED TO REFUNDING THE PORTION OF ANY PAID SUBSCRIPTION FEE ACCRUING AFTER THE TERMINATION DATE.

THESE LIMITATIONS AND EXCLUSIONS REGARDING DAMAGES APPLY EVEN IF ANY REMEDY FAILS OF ITS ESSENTIAL PURPOSE. THIS SECTION WILL APPLY TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW.

7. INDEMNIFICATION

You agree to defend, indemnify and hold harmless Lyon, its licensors and their affiliates from all liabilities, claims and expenses, including attorneys' fees, that arise from or in connection with your breach of these Terms or the Lyon Privacy Policy, use of CBISA Online or any Subscription. Lyon reserves the right, at its own expense, to assume the exclusive defense and control of any matter otherwise subject to indemnification by you.

8. AMENDMENTS

Lyon may amend these Terms and the Lyon Privacy Policy at any time in its sole discretion. Any amendment by Lyon shall be effective thirty (30) days after your receiving notice of the amendment, either in writing or via e-mail flagged as "high importance." You can view the Terms and the Lyon Privacy Policy at any time at www.lyonsoftware.com. If you do not agree to the amendment, you must send notice of your objection within fifteen (15) days after receiving notice of the amendment. If you fail to timely object, you accept all such amendments.

If you timely object to an amendment, Lyon may, in its sole discretion, either (a) rescind the amendment as it relates to you for the remainder of the then current annual term, or (b) terminate your Subscription and refund a portion of the Subscription fee pursuant to Section 9.c. If you renew your Subscription thereafter, it will be subject to these Terms as amended.

9. TERM AND TERMINATION

a. Term.

The start-up term of your Subscription begins as of the date that you set up your CBISA Online account and obtain a user name and password, and will continue through the end of that calendar month and for one (1) year thereafter. (For example, if you first set up your CBISA Online account on January 3, your start-up term begins on January 3 and continues through January 31 of the following year.) You may renew your Subscription for annual renewal terms thereafter.

b. Termination by You.

You may terminate your Subscription at any time by notice to Lyon. Unless Lyon has breached these Terms (and then subject to the limitations and exclusions in these Terms), you are not entitled to a refund of any Subscription fee.

c. *Termination by Lyon.*

Lyon may terminate your Subscription at any time by notice to you. If Lyon terminates your Subscription, and you have not in any way breached these Terms, Lyon will refund to you any portion of the Subscription fee which you have paid but which accrues after the termination date.

d. *Survival of Terms.*

Sections 2, 3.b, 3.c, 6, and 7 will survive any expiration or termination of your Subscription.

10. APPLICABLE LAW

Your Subscription and these Terms shall be governed by Ohio law, without reference to conflict of laws principles.

11. ARBITRATION

Any controversy or claim between you and Lyon, including without limitation controversies or claims relating to your Subscription or these Terms, shall be determined by binding arbitration in accordance with the Federal Arbitration Act (or if not applicable, the applicable state law), and the Rules of Practice and Procedure for the Arbitration of Commercial Disputes of Endispute, Inc., doing business as ("J.A.M.S."). The arbitration shall be conducted in Toledo, Ohio, and administered by J.A.M.S. who will appoint an arbitrator; if J.A.M.S. is unable or legally precluded from administering the arbitration, then the American Arbitration Association will serve. Judgment upon any arbitration award may be entered in any court having jurisdiction. Lyon or you may bring an action to compel arbitration in any court having jurisdiction over such action.

12. MISCELLANEOUS

If any provision of these Terms is determined to be unenforceable, such provision will be deemed amended the minimum amount necessary to permit its enforcement. These Terms constitute and contain the entire agreement between the parties with respect to the subject matter hereof and supersedes any prior oral or written agreements. These Terms are not intended to confer and does not confer any rights or remedies upon any person other than you and Lyon.

Lyon's obligations are subject to existing laws and legal process and Lyon may comply with law enforcement or regulatory requests or requirements notwithstanding any contrary term.

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