

# JUSTCQ PRODUCT TERMS AND CONDITIONS OF USE

*Last Updated: APRIL 4, 2025*

## **PLEASE READ THIS AGREEMENT CAREFULLY**

This JustCQ Product Solution License Subscription Agreement (“**Agreement**” or “**Terms**”) is an agreement between you as the licensee (“**Licensee**,” “**you**” and “**your**”) and JustCQ Inc. (“**JustCQ**,” “**Licensor**,” “**we**,” “**us**,” and “**our**”) that sets forth the terms and conditions that govern your use of JustCQ online Product Solutions, including any offline components that will be accessed through the JustCQ Website. Unless otherwise defined herein, capitalized terms shall have the meaning given to them as set forth in **Section 3, Definitions**, of this Agreement.

As the Licensee, you are purchasing access to, or licenses to, one or more JustCQ Product Solutions. If Licensee is a parent holding company contracting on behalf of its subsidiaries, then reference to Licensee within this Agreement shall include any subsidiary Health Organization of Licensee. If you are a Management Services Organization, consultant or other third-party vendor which is accessing a Product on behalf of Health Organization clients, then reference to Licensee within this Agreement shall include such clients.

All individuals identified by Licensee and approved by JustCQ for access to any Product Solution are referred to as “**Permitted Users**” or “**Users**” and shall include the employees, consultants, contractors, agents, clients, and other authorized representatives of Licensee. All Permitted Users must be approved by JustCQ to have access to one or more of the Product Solutions.

## **1. ACCEPTANCE OF TERMS; UPDATES**

**YOU ARE REQUIRED TO AGREE TO THESE TERMS IN ORDER TO PURCHASE A LICENSE TO USE ANY OF OUR PRODUCTS. BY ACCESSING OR USING THE JUSTCQ SITE AND PRODUCTS OR BY ACCEPTING THE TERMS OF THIS AGREEMENT THROUGH THE PRODUCTION SOLUTION SUBSCRIPTION PROCESS, YOU INDICATE THAT YOU HAVE READ, UNDERSTAND AND AGREE TO BE BOUND BY ALL OF THE TERMS, CONDITIONS, AND NOTICES CONTAINED OR REFERENCED IN THESE TERMS, INCLUDING THE PRIVACY POLICY AND ANY APPLICABLE PRODUCT TERMS FOUND ON THE WEBSITE, ALL OF WHICH GOVERN YOUR USE OF JUSTCQ’S PRODUCTS AND SITE.**

IF YOU ARE ENTERING INTO THIS AGREEMENT ON BEHALF OF A COMPANY OR OTHER LEGAL ENTITY, YOU REPRESENT THAT YOU HAVE THE AUTHORITY TO BIND SUCH ENTITY TO THESE TERMS AND CONDITIONS, IN WHICH CASE THE TERMS “**LICENSEE**,” “**YOU**” OR “**YOUR**” SHALL REFER TO SUCH ENTITY. IF YOU DO NOT HAVE SUCH AUTHORITY, OR IF YOU DO NOT AGREE WITH THESE TERMS AND CONDITIONS, YOU MAY NOT LICENSE OR USE THE PRODUCTS AND YOU SHOULD **NOT** ACCEPT THE TERMS OF THIS AGREEMENT THROUGH THE PRODUCT SOLUTION SUBSCRIPTION PROCESS.

JUSTCQ RESERVES THE RIGHT, IN OUR SOLE DISCRETION, TO MAKE UPDATES OR CHANGES TO THIS AGREEMENT AND TO THE SITE AT ANY TIME. THE “**LAST UPDATED**” LEGEND ABOVE INDICATES WHEN THESE TERMS WERE LAST CHANGED.

ALL CHANGES ARE EFFECTIVE IMMEDIATELY UPON POSTING TO THE SITE. AFTER YOU INITIALLY ACCEPT THESE TERMS, CONTINUED USE OF THE PRODUCTS OR SITE FOLLOWING THE POSTING OF REVISED TERMS WILL INDICATE YOUR ACCEPTANCE OF, AND AGREEMENT TO BE BOUND BY, THE REVISED TERMS. FOR THIS REASON, WE ENCOURAGE YOU TO REVIEW THESE TERMS EACH TIME YOU VISIT OUR SITE

## 2. UNITED STATES USE ONLY; AGE RESTRICTION

2.1 JustCQ Product Solutions are intended for use only in the United States and by agreeing to be bound by this Agreement, as evidenced by your acceptance of its terms and conditions through the Product Solution subscription process, you are attesting that Licensee lives in, or has its principal place of business in, the United States, and the Product Solutions will only be used by, for, with, or on behalf of, persons or companies living, headquartered, or domiciled in the United States. If Licensee lives, is headquartered, or is domiciled, outside of the United States you may not license the Product Solutions and you must not subscribe to a Product Solution or accept the terms of this Agreement.

2.2 This Agreement may be accepted only by, and the Product Solutions and Site may be accessed and used only by, individuals who can form legally binding contracts under applicable laws and who are at least eighteen (18) years of age or the age of majority in their state of residence (if higher than eighteen (18)).

## 3. DEFINITIONS

3.1 “AAA” shall mean the American Arbitration Association.

3.2 “Accountable Care Organization” or “ACO” means groups of providers, which may include physicians, hospitals and other health care providers, typically with a strong primary care base, who collectively come together to coordinate the delivery of high-quality, cost-efficient health care to a designated group of patients and who share responsibility for clinical and financial outcomes.

3.3 “Agreement” is defined in the introductory paragraph and includes any amendments, changes and replacement agreements along with other terms and conditions posted on the Website, including but not limited to the Privacy Policy and applicable Product Solution terms, if any.

3.4 “CMS” means the Centers for Medicare and Medicaid Services.

3.5 “Documentation” means the applicable user and training manuals, frequently asked questions (“FAQs”), videos, and other material that may be made available through its Website by JustCQ to Licensee from time to time that describe the functionality and use of the Product Solution(s). Reference to Documentation throughout this Agreement means only to the extent any documentation, user or training manuals, FAQs, videos, or other material exists for a particular Product Solution in electronic format and in no event guarantees any documentation, user or training manuals, FAQs, videos, or other material for any Product Solution.

3.6 “Effective Date” means the date of the confirmation of Licensee’s Solution activation emailed by JustCQ to Licensee following (i) JustCQ’s receipt of Licensee’s payment in full of the License fee for one or more Product Solution subscriptions (as applicable), as evidenced by a confirmation of payment issued to Licensee by JustCQ or by JustCQ’s third party payor, and (ii) Licensee’s acceptance of all terms and conditions set forth in this Agreement when Licensee subscribes to a Product Solution.

**3.7 “Environment”** shall mean the application environment made available by JustCQ in which Licensee has access to, and uses, the Product(s).

**3.8 “Health Benefit Management Vendor”** means a contracted vendor of a Health Plan that arranges for the provision of certain health benefits and services, including but not limited to vision, dental, behavioral health and substance abuse, pharmacy and chiropractor services, to the Health Plan’s Members.

**3.9 “Health Plan”** means a health insurance company or managed care organization including health maintenance organizations, preferred provider organizations, exclusive provider organizations, and point of service plans that offer health benefits to Members and includes commercial, Medicare, Medicare SNP, Medicaid and other authorized health benefit plans. For purposes of this Agreement, Health Plan does not include self-insured groups unless specifically authorized by Company in writing.

**3.10 “Health Organization”** means Health Plans, Management Service Organizations, Accountable Care Organizations, Health Benefit Management Vendors, and Integrated Health Systems.

**3.11 “HIPAA”** means the Health Insurance Portability and Accountability Act of 1996 (as amended), the Information Technology for Economic and Clinical Health Act (as amended), and their implementing regulations.

**3.12 “Integrated Health System”** means a network of physicians, hospitals and other health care providers and facilities (providers are often organized under a parent holding company) that provides, or arranges to provide, a coordinated full continuum of health care services for a designated group of people so that people receive the right amount of high-quality, cost-efficient care, at the right time.

**3.13 “Intellectual Property”** means any and all completed or in-progress patentable or non-patentable inventions, original works of authorship, discoveries, ideas, technology, computer programs, software, platforms, products, application programming interfaces, formulas, algorithms, systems (and all source code and object code related to any of the foregoing), techniques, know-how, data, writings, compositions, content, literary properties, documents, designs, illustrations, processes, procedures, protocols, trademarks, service marks, trade secrets, copyrights, patents, work solutions, work flows, tools and all other items, materials or works, tangible or intangible (and all improvements, modifications, derivatives and intellectual property rights related to any of the foregoing).

**3.14 “License”** has the meaning set forth in Section 4.2.

**3.15 “Licensee”** is defined in the introductory paragraph of this Agreement.

**3.16 “Licensee Data”** means (i) data, documents and other information input or uploaded into a Product by Licensee or any Permitted User, including but not limited to, data and information about Licensee, Permitted Users, Licensee’s configuration, business, compliance and operating information, and Licensee policies and procedures, as well as (ii) the resulting output data produced by the Product based on the input of Licensee data as described in part (i).

**3.17 “Licensor”** means JustCQ Inc.

**3.18 “Management Service Organization” or “MSO”** means a company that contracts with providers, provider organizations, Health Plans or other Health Organizations to provide defined management and administrative services.

**3.19 “Member”** means a subscriber or enrollee of a Health Plan.

**3.20 “Permitted User” or “User”** has the meaning set forth in the introductory section of this Agreement.

**3.21 “PHI”** means protected health information as defined under HIPAA.

**3.22 “Platform”** means JustCQ’s computer and operating systems on which JustCQ hosts and operates the Products for access and use in accordance with this Agreement; and includes JustCQ’s QualPlus (also known as Qual+) operating system and any other systems on which JustCQ hosts and operates a Product.

**3.23 “Product Solution” or “Product” or “Solution”** means individually and in the aggregate the computer program(s), product(s), software, workflow solutions or tool(s) to which JustCQ is granting Licensee a License to access and use, through JustCQ’s Platform, Website or any other method, in accordance with this Agreement, in object code form only, including all Updates, and any derivative works, translations, patches, enhancements, improvements, modifications, error corrections, or other versions thereof, and all associated Documentation and Services.

**3.24 “Privacy Policy”** means the separate statement available through our Website that describes how we manage and protect information in the Products and Sites we offer and the manner in which JustCQ collects, uses and shares your personal information collected through our Products or Site.

**3.25 “Services”** means the standard maintenance and technical support services and Updates that are provided by JustCQ for any Product Solution licensed to Licensee hereunder and are included at no additional charge for such Product Solution.

**3.26 “Site”** refers collectively to any or all of JustCQ’s Product Solutions, Platform, Website, Environment, their respective content and any other applications, software, hardware, websites, links, forums, blogs, sites or other features made available to Licensee.

**3.27 “Term”** shall refer to the period this Agreement and applicable Product License(s) subscription is in effect, beginning as of the Effective Date.

**3.28 “Updates”** means JustCQ’s releases of a Product Solution incorporating maintenance, improvements, patches, error corrections and/or enhancements but do not include separately priced releases offering new features or functionality or new Product Solutions JustCQ may offer.

**3.29 “Website”** means the website [www.JustCQ.com](http://www.JustCQ.com) that is owned and operated by JustCQ and all underlying software and any other sites that reference this Agreement.

#### **4. INTELLECTUAL PROPERTY; LICENSE**

**4.1 Intellectual Property; Ownership.** Licensee acknowledges that the Sites and Product Solutions, in both object and source code formats, constitute Intellectual Property of JustCQ, and the Product Solution and Sites, including any content, functionality and features, including but not limited to, information, materials, text, graphics, illustrations, videos, photographs, images, audio, icons, files, software, and all other current and future Intellectual Property rights therein, are owned or licensed by JustCQ (or its licensors) and are protected by applicable intellectual property laws. JustCQ reserves all rights not expressly granted by it under this Agreement. Except as expressly set forth in this Agreement, no right, title or interest in or to the Product Solutions or Sites is transferred to you and Licensee shall not be an owner of any copies of, or, have any interest in, the Sites or Product Solutions.

**4.2 Grant of License.** Under the terms and conditions of this Agreement, and upon the payment of the applicable License fee, JustCQ grants to Licensee and the Permitted Users a limited, non-exclusive, non-transferable license (“**License**”) and right as described hereunder, to access and use one or more Product Solutions in accordance with this Agreement and any applicable Documentation, solely for the intended use of such Product Solution during the Term. The foregoing access and use License grant does not constitute a sale and does not convey any rights of ownership in or to the Product Solution, Services, Documentation, Site or any related materials, to Licensee, Permitted Users or any third-party. The access and use License granted hereunder is only granted for the duration of the Term of this Agreement.

**4.3 Restrictions on Licensee.** Licensee and Permitted Users shall use a Product Solution only as permitted by this Agreement, only for the intended use, and only in accordance with any usage restrictions that may be more specifically provided for in this Agreement or Product Documentation. Unless it obtains JustCQ’s express written consent, Licensee shall not, and shall ensure that each Permitted User does not:

(a) modify, adapt, alter, translate, reverse engineer, disassemble, or decompile a Product Solution, or otherwise attempt to derive the source code or structure of the Product Solutions or create derivative works based on the Product Solution, Services or Documentation,

(b) port, translate or localize a Product Solution, Services or Documentation,

(c) sell, lease, rent, loan, license, sublicense, distribute, copy, reproduce, market, distribute, or otherwise transfer the Product Solution, Documentation or Services or provide access to the Product Solution, Documentation or Services to any third-party, in each case other than in connection with the intended use of the Product Solution and as permitted hereunder,

(d) knowingly or intentionally send or store Malware through or into a Product Solution or Site;

(e) attempt to gain unauthorized access to a Product Solution;

(f) create Internet “links” to a Product Solution or “frame” or “mirror” any content thereof on any other server or wireless or Internet-based device;

(g) use or merge the Product Solutions, or any component or element thereof, with other software, databases, sites or services not provided by JustCQ;

(h) interfere in any manner with the operation of the Product Solutions or Site;

(i) circumvent, or attempt to circumvent, any electronic protection measures in place to regulate or control access to the Product Solutions;

(j) create a database by systematically downloading and storing the Product Solutions;

(k) use any robot, spider, site search/retrieval application or other manual or automatic device to retrieve, index, “scrape” “data mine” or in any way gather the Product Solutions or reproduce or circumvent the navigational structure or presentation of the Product Solutions;

(l) use the Product Solution to send spam or otherwise duplicative or unsolicited messages in violation of applicable laws or to send or store materials that are obscene, threatening, libelous, infringing of third-party property rights, or otherwise unlawful, including materially harmful to children or violative of third-party privacy rights; or

(m) remove, alter or obscure any trademark, copyright or any other proprietary or confidentiality notice that appears on or in the Product Solutions or Site.

**4.4 Product Solution and Site Updates.** JustCQ reserves the right to make improvements, changes or updates to its Product Solutions or Site at any time without notice; however, JustCQ will provide notice in advance of Product Solution or Site Updates it considers significant or, which will make the Product Solution and/or Site unavailable for a period of time.

## **5. LICENSEE CONTACT; PERMITTED USERS; TRAINING; LICENSEE RESPONSIBILITIES AND FEEDBACK**

**5.1 Licensee Contact; Permitted Users.** The contact identified by Licensee upon Licensee's creation of its account through the JustCQ Website, shall be the primary Licensee contact with JustCQ regarding the use of the Product Solution(s) and, with respect to Permitted Users, shall be responsible for notifying JustCQ of (i) individuals to be authorized and activated by JustCQ as Permitted Users for access to the Product Solution(s) and (ii) any changes to Permitted Users, such as adding and removing Permitted Users and granting or restricting Permitted User access to all or part of the Product Solution(s) or Licensee Data. Licensee shall be fully responsible for identifying Permitted Users to be authorized and activated by JustCQ for access to a Product Solution and Licensee shall be fully liable in the event Licensee instructs JustCQ to authorize and activate an individual as a Permitted User and provide him/her access to all or part of a Product Solution or Licensee Data to which the Permitted User should not have access and JustCQ shall have no responsibility or liability with respect to authorizing and activating any individuals as Permitted Users in accordance with Licensee's instructions. Licensee shall be responsible for ensuring that all Permitted Users comply with all obligations and restrictions set forth in this Agreement. Licensee agrees to:

(i) promptly notify JustCQ on becoming aware of any unauthorized use of any password or account or other unauthorized access to a Product Solution, Documentation or Services;

(ii) promptly notify JustCQ of, and use reasonable efforts to immediately stop, any copying or distribution of JustCQ Product Solutions or other content not permitted hereunder that is known or suspected by Licensee; and

(iii) not impersonate another Licensee or other Permitted User of a Product Solution, Documentation or Services, or provide false identity information to gain access to or use of a Product Solution, Documentation or Services.

Licensee shall provide any information on Permitted Users and proposed Permitted Users as requested by JustCQ for JustCQ to monitor the number of Permitted Users, authorize and activate Permitted Users on the Product Solution(s), and confirm the use of the Product Solution, Documentation and Services by the Permitted Users is in accordance with the terms of this Agreement. JustCQ shall have the right to restrict, suspend or terminate a Permitted User's access to the Product Solution(s) if JustCQ in its sole discretion determines a Permitted User is not complying with the terms of this Agreement. JustCQ shall notify Licensee in writing of the reason for the restriction, suspension or termination of a Permitted User's access and, if the reason for the restriction, suspension or termination is cured to JustCQ's reasonable satisfaction then JustCQ may restore such Permitted User's access in its sole discretion.

**5.2 Training.** The Licensee administrator shall be responsible for training Permitted Users on use of the Product Solution(s) by using online Product Solution user or training guides made available by JustCQ and any other training Documentation such as videos or webinars to the extent

training is made available through such methods by JustCQ for any Product Solution. Licensee requests for additional training, including remote training by JustCQ, may be considered by JustCQ and provided only in JustCQ's sole discretion; any such additional training may have a fee associated with it.

**5.3 Licensee Responsibilities.** Licensee shall be solely responsible for the following with respect to a Product Solution:

(i) ensuring no PHI is entered into or maintained in Product Solutions where PHI is prohibited and, with respect to Product Solutions specifically intended to be used with PHI (if any), administering minimum necessary access standards pursuant to HIPAA, and any other applicable federal or state laws governing the confidentiality and privacy of health information, including without limitation comprehensive password management, multi-factor authentication, data loss prevention controls, and other industry-standard security defense protocols for Permitted Users to access the Product Solution;

(ii) providing and maintaining computers and network access within Licensee's computer system for Permitted Users to access the Product Solution;

(iii) providing appropriate industry standard measures intended to ensure reasonable security for integration between Licensee applications and the Product Solution; and

(iv) appointing administrators and identifying, managing and overseeing Permitted Users in accordance with **Section 5.1** and

(v) ensuring the Product Solutions are used only as intended and the terms of this Agreement and any other applicable requirements are complied with.

**5.3.1 PHI Restrictions; Data De-Identification.** Unless otherwise specifically stated in the Product Solution description and specifications, *the JustCQ Product Solutions are not to be used for storing PHI, as such, Licensee is prohibited from loading Licensee Data that includes Member PHI into any Product Solution and Licensee shall be responsible for de-identifying all Member data prior to including it in Licensee Data that is entered or loaded into any Product Solutions, unless the Product Solution description and specifications clearly state the Product Solution can be used for PHI*, in which case the parties shall fully comply with applicable HIPAA requirements, and any other applicable federal or state laws governing the confidentiality and privacy of health information, including those requirements pertaining to business associates.

**5.3.2 Licensee Data.** Licensee will be responsible for loading all Licensee Data into the Product Solutions and for downloading all output data, documents, reports or other information as needed from the Product Solutions and for maintaining any needed copies of data, documents and information that Licensee enters or uploads into the Product Solution. JustCQ is not responsible for loading or downloading any Licensee Data, output, documents, reports or other information from the Product Solutions, or for performing any other work for Licensee with respect to a Product Solution but, upon request, may provide assistance to Licensee subject to an additional fee.

**5.3.3 Independent Professional Judgment.** Licensee acknowledges that the Product Solutions, Documentation, and Services are intended to be used as business process tools and are not a substitute for the professional judgment of Licensee and its Permitted Users. Licensee remains solely responsible and liable for the use and/or non-use by its Permitted Users of the Product Solution, Documentation and Services, including any specific component, output data or functionality of the Product Solution, Documentation and Services.

**5.4 Consent to Use Licensee Feedback.** If Licensee posts, uploads, expresses, transmits,

submits or otherwise provides any comments, suggestions, feedback, ideas, recommendations or other communication or information about the Product Solutions or Site (collectively “**Feedback**”) Licensee hereby grants JustCQ a royalty-free, worldwide, sublicensable, right and license to use and incorporate any such Feedback provided by or on behalf of Licensee or Permitted Users into the Product Solution, Services, Documentation or Site, provided that, JustCQ does not include any of Licensee’s confidential information or Intellectual Property. Licensee makes no representation or warranty as to the accuracy, usefulness, fitness for particular purpose or non-infringement with respect to the Feedback.

## **6 SUPPORT SERVICES**

**6.1 Technical Support.** JustCQ will provide Services for the Product Solution(s) during the Term, which may include services such as error and bug fixes, standard maintenance, Updates, or other similar technical support services. JustCQ’s provision of periodic Services may cause the Product Solution to be unavailable for a period of time; however, JustCQ will provide Licensee with advance notice of any scheduled downtime and will perform any scheduled downtime maintenance outside of the standard business hours of 9am to 5pm EST. If Licensee wants to request a specific type of technical support, you can contact JustCQ using the contact method provided on the Website. Additional services may be subject to a fee.

## **7 PAYMENT TERMS**

**7.1 Fees.** Licensee will be responsible for paying the License subscription fee associated with the applicable licensed Product Solution(s) as set forth in the Product Solution description on the Website. The Product Solution description will specify what is included in each fee such as Product Solution functions, number of users and amount of storage. JustCQ, in its sole discretion and without need for the approval of Licensee, may change the subscription License fee for any Product Solution for any renewal term and if Licensee does not wish to pay the new License fee then Licensee may choose to not renew the Agreement by terminating it in accordance with **Section 8.2**.

**7.1.1 Subscription Term.** All Product Solution subscriptions terms shall be for one year, renewable on an annual basis. The full annual subscription fee must be paid in advance.

**7.1.2 Subscription Fee Variability; Number of Users; Options.** License subscription fees shall vary based on the number of Permitted Users to have access to a Product Solution, and, if applicable to a Product Solution, shall vary based on other Product options selected, such as the number of trainings, lines of business, contracts, states, or policy categories the Licensee will use the Product Solution for. The Permitted User and other Product Solution options and fees shall be as set forth in the applicable Product Solution description and plan pricing options and are subject to change by JustCQ at any time.

**7.1.3 Additional Fees.** Any fees for additional services or options not covered by the Product Solution subscription fee shall be specified in the applicable Product Solution description, along with the timing for payment of any such additional fees. Any such additional fees, and the timing for payment of such fees, are subject to change by JustCQ at anytime.

**7.2 Billing; Renewal; JustCQ Recourse for Late or Nonpayment.** The initial annual Product Solution subscription fee is due and payable to JustCQ after the terms of this Agreement are accepted and prior to Licensee receiving access to a Product Solution. JustCQ shall invoice the Licensee identified billing contact for the subscription amount due and owed to JustCQ and Licensee shall issue payment as directed by JustCQ, either directly to JustCQ or through JustCQ’s third party



payor, using one of the specified and approved payment methods. After the initial subscription term, the License subscription will be automatically renewed annually on the anniversary of the Effective Date for the same term and Licensee shall be invoiced at JustCQ's subscription renewal rate then in effect unless the subscription is terminated in accordance with this Section or **Section 8** herein. JustCQ will notify Licensee at least sixty (60) days in advance of the annual renewal date and shall include an invoice setting forth the renewal rate and any applicable additional fees. After receiving the notice of Product Solution subscription renewal, unless Licensee provides notice to JustCQ of intent not to renew the subscription prior to the renewal date, the Product Solution subscription(s) shall automatically renew on the renewal date at the invoiced renewal amount and Licensee shall be responsible for paying the full renewal rate, including any applicable additional service fees, prior to the start of the renewal term. **If a check is not received or does not clear or if electronic billing is rejected or if payment by any permitted method is not received within seven (7) days following the payment due date, Licensee and Permitted User access to the applicable Product Solution(s) will be suspended and will not be reinstated until JustCQ receives payment in full, including any applicable interest and costs of collection and, in the case of a bounced check or a payment that does not clear, in addition to any other remedies it may have, JustCQ shall assess Licensee a penalty fee of forty dollars (\$40).** All fees are, except as otherwise stated, nonrefundable. Any amounts not paid within thirty (30) days of the date due shall bear interest at the rate of 1.0% per month (12% per year). If any amount is not paid when due hereunder, JustCQ will be entitled to recover from Licensee the costs and expenses incurred in connection with collecting the same (including, without limitation, reasonable costs of investigation and attorney fees), in addition to any rights it has to suspend access to Product Solutions or Services or to terminate the Agreement. Licensee's account and Product Solution access will be reinstated only after all applicable fees and outstanding balances are brought current. If Licensee in good faith disputes the accuracy of any invoice, then Licensee must pay any undisputed portion of a current invoice and notify JustCQ of the disputed amount. With respect to past invoices, Licensee must notify JustCQ of the disputed amount within ninety (90) days of the date of a past invoice. The parties shall work in good faith to resolve the dispute and correct the invoice. If an error is found that resulted in an overpayment by Licensee, such overpayment shall, at Licensee's option, either be refunded to Licensee or credited to Licensee against the next subscription term renewal rate. In the event an error is found that resulted in an underpayment by Licensee, then Licensee shall pay JustCQ the additional amount owed within fifteen (15) days or Licensee's access to the Product Solution or Sites may be suspended.

**7.2.1 Billing Method; Account.** To pay the subscription fee for a Product Solution and any applicable additional fees, Licensee must create an account through JustCQ's Website and provide a billing contact at the time of signing up for a Product Solution. Licensee must use one of the approved methods of payment identified by JustCQ or its third party payor. You can access and change your billing information at any time by logging into your account on our Website. You agree to permit JustCQ, or its third party biller, to use your billing and account information to process your payments. In the event of any changes, you agree to promptly update your account and other information, including your billing contact name and email address, so JustCQ, or its third party biller, can invoice you and complete your payment transactions and otherwise contact you as needed in connection with your payment transactions. For electronic payment methods, you authorize JustCQ or its third party payor to process any fees owed using the payment method and financial accounts you designate. Licensee agrees to only use payment methods where Licensee is the authorized user on the account. In accordance with **Section 7.2**, if JustCQ does not receive payment within the specified timeframe, Licensee's access to the Product Solution may be suspended and Licensee's subscription may be cancelled and a late fee may be assessed.

**7.2.2 No Prorated Refunds.** If Licensee cancels a subscription mid-term, Licensee will continue to have access to Licensee's account and applicable Licensed Product Solutions until the end of the then current subscription term. No prorated refunds will be issued even if Licensee discontinues using the Product Solution during the remainder of the subscription term. If JustCQ terminates the Agreement or cancels a Product Solution subscription mid-term for cause in accordance with **Section 8.2** Licensee will lose all access to the affected Product Solutions and Licensee's account and Licensee will not receive a prorated refund for the remainder of the term.

**7.2.3 Taxes.** In addition to other amounts payable under this Agreement, Licensee shall be responsible for any and all applicable federal, state, and municipal taxes, sales or use taxes or any value-added or other taxes, duties, fees, or withholding, which are, or subsequently become, payable with respect to Licensee's licensing or use of the Product Solution or the payment of the fees to JustCQ, other than taxes assessed or imposed based upon JustCQ's net income. In the event that JustCQ pays any such taxes on behalf of Licensee, JustCQ shall invoice Licensee for such taxes and Licensee agrees to pay such taxes within seven (7) days of the date due or JustCQ shall have such recourse available to it for late or non-payment by Licensee as described in **Section 7.2** above.

## **8 TERM AND TERMINATION**

**8.1 Term.** This Agreement will begin as of the Effective Date and shall remain in full force and effect unless terminated (i) upon the mutual written agreement of the parties or (ii) in accordance with **Section 8.2** below.

**8.2 Termination.** This Agreement or any Product Solution subscription may be terminated by either party as follows:

**8.2.1** By Licensee at any time with or without cause upon notice to JustCQ in accordance with **Section 12.11** herein; however, in accordance with **Section 7.2.2**, there will be no prorated refunds if Licensee terminates this Agreement and/or any Product Solution License subscription during the subscription term; however, Licensee will continue to have access to the Licensed Product Solutions until the expiration of the applicable subscription terms.

**8.2.2** JustCQ may suspend or terminate access to a Product Solution, or terminate this Agreement (whether or not JustCQ had previously suspended access to a Product Solution) with respect to Licensee:

(a) immediately if Licensee fails to pay properly invoiced and undisputed amounts in accordance with **Section 7.2** or breaches **Section 4.3**;

(b) upon five (5) days' written notice to Licensee, if Licensee has committed a breach of **Section 5** of this Agreement and fails to cure such breach to JustCQ's satisfaction within such five (5) days;

(c) immediately upon written notice, if (i) Licensee has ceased operating in the normal course of business (other than in connection with a permitted assignment under **Section 12.1**); or (ii) all of the assets of Licensee are transferred to an assignee for the benefit of creditors, to a receiver, or to a trustee in bankruptcy for purposes of liquidation or (e) immediately with respect to a Permitted User in accordance with **Section 5.1** if JustCQ in its sole discretion determines a Permitted User is not complying with the terms of this Agreement;

(d) upon ninety (90) days' notice with respect to a Product Solution if JustCQ decides to stop offering or supporting a Product Solution through its Site; or

(e) upon notice by JustCQ for any reason.

**8.3 Termination and Licensee Data.** It is Licensee's responsibility to download any Licensee Data including any data, documents or other output from the Product Solutions prior to the termination of a Product Solution subscription. If Licensee requests assistance from JustCQ in downloading any information from the Product Solution during the subscription term or requests that JustCQ provide information after the termination of a subscription term then JustCQ may assist Licensee with obtaining such information; however, there may be an additional fee.

## 9 **DISCLAIMER OF WARRANTY; LIMITATION OF LIABILITY**

**9.1 Disclaimer of Warranty.** JUSTCQ AND ITS SUPPLIERS AND THIRD-PARTY VENDORS DO NOT WARRANT OR REPRESENT THAT THE OPERATION OF THE PRODUCT OR SITE WILL BE UNINTERRUPTED, ERROR-FREE, OR COMPLETELY SECURE OR THAT THE DOCUMENTATION WILL BE ERROR-FREE, OR THAT ALL ERRORS WILL BE REPAIRED. LICENSEE ACKNOWLEDGES THAT THERE ARE RISKS INHERENT IN INTERNET CONNECTIVITY THAT COULD RESULT IN THE LOSS OF LICENSEE'S PRIVACY, CONFIDENTIAL INFORMATION, AND PROPERTY. THE SITE, ALL PRODUCTS, DOCUMENTATION AND SERVICES ARE PROVIDED BY JUSTCQ ON AN "AS IS" BASIS. UNLESS SPECIFICALLY PROHIBITED BY APPLICABLE LAW, JUSTCQ DISCLAIMS AND EXCLUDES ANY AND ALL WARRANTIES, NOT EXPRESSLY STATED IN THIS AGREEMENT INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, OR ERROR FREE PERFORMANCE. TO THE EXTENT LICENSOR INCORPORATES OR OFFERS A THIRD-PARTY SOFTWARE, TOOL OR INFORMATION THROUGH ITS PRODUCTS, ("**LICENSOR THIRD-PARTY PRODUCTS**") LICENSOR EXPRESSLY EXCLUDES ALL WARRANTIES, EXPRESS OR IMPLIED, ORAL OR WRITTEN, STATUTORY OR OTHERWISE WITH RESPECT TO SUCH LICENSOR THIRD-PARTY PRODUCTS, INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, OR ERROR FREE PERFORMANCE. LICENSEE ASSUMES THE RESPONSIBILITY FOR THE SELECTION OF THE PRODUCT(S) TO ACHIEVE LICENSEE'S INTENDED RESULTS AND IS SOLELY RESPONSIBLE FOR THE SUITABILITY OF THE PRODUCT(S) CHOSEN. LICENSEE ACKNOWLEDGES AND AGREES THAT USE OF LICENSOR'S PRODUCTS DOES NOT GUARANTEE ANY PARTICULAR RESULT OR OUTCOME FOR LICENSEE, INCLUDING BUT NOT LIMITED TO, THE RESULT OF ACQUIRING OR MAINTAINING ANY CERTIFICATION OR PASSING ANY SURVEY OR MEETING AND MAINTAINING ANY STATE, FEDERAL, CONTRACT OR AGENCY REQUIREMENTS AND LICENSEE IS SOLELY RESPONSIBLE FOR IDENTIFYING, MEETING AND MAINTAINING ITS OWN OPERATING AND COMPLIANCE REQUIREMENTS REGARDLESS OF THE PERFORMANCE OF, OR OUTPUT DATA OR OTHER INFORMATION RECEIVED FROM, THE PRODUCT(S), SITE, SERVICES AND DOCUMENTATION.

### **9.2 Limitation of Liability; Exception.**

**9.2.1 Limitation of Liability.** Except as otherwise expressly set forth in this Section 9.2, neither party shall be liable for any indirect, special, punitive or consequential damages, or the loss of profits, regardless of the form of action, even if advised of the possibility of such damages. These limitations shall apply notwithstanding the failure of the essential purpose of any remedy. Each party acknowledges that this limitation of liability reflects an informed, voluntary allocation between the parties of the risks (known and unknown) that may

exist in connection with this Agreement and constitutes a substantial portion of the consideration exchanged between the parties with respect to this Agreement. If you have any basis for recovering damages (including breach of this Agreement), you agree that your exclusive remedy is to recover, from JustCQ or any affiliates, third-party providers, and vendors, direct damages up to an amount equal to the aggregate amount of Licensee's Product Solution subscription fee(s) and any applicable additional fees for the month during which the loss or breach occurred (or up to \$10.00 if the Product Solutions and Services are free under any trial period). You cannot recover any other damages or losses, including direct, consequential, lost profits, special, indirect, incidental, or punitive. These limitations and exclusions apply even if this remedy doesn't fully compensate you for any losses or if the remedy fails of its essential purpose, or if we knew or should have known about the possibility of the damages. To the maximum extent permitted by law, these limitations and exclusions apply to anything or any claims related to this Agreement, the Product Solutions, Site, and Services, including any products or services offered by or through third parties.

**9.2.2 Exceptions to Limitations.** The disclaimer set forth in **Section 9.1** and the liability cap set forth in **Section 9.2.1** shall not exclude or limit the liability of either party in the case of : (a) Licensee's payment obligations pursuant to the terms of this Agreement and any Product Solution description and specifications; (b) indemnification obligations of a party as set forth in **Article 10**; (c) fraud or willful misconduct of either party; (d) death or personal injury or damage to real or tangible property caused by either party's negligence, misconduct or breach; (e) breach of the Product Solution usage restrictions set forth in **Section 4.3**; (f) violation of the other party's intellectual property rights. or (g) breach by either party of its confidentiality obligations as set forth in this Agreement or in a business associate agreement between the parties; with respect to this subsection (g) the aggregate amount of damages a party may be liable for is twice the amount as set forth in **Section 9.2.1** plus any additional costs a party may be required to pay in accordance with a business associate agreement, if applicable.

**9.3 Limitations Period.** JustCQ and Licensee desire to expressly limit the statute of limitations existing under applicable law for claims arising under contracts, or any other matter, pertaining to this Agreement, to a period of one (1) year. Accordingly, each party expressly understands and agrees that any action or claim against the other party arising from or relating to this Agreement shall be deemed irrevocably waived if not instituted within one (1) year from the event giving rise to such claim or action, and each party hereby waives any rights under any statute of limitations existing under applicable law allowing the other party to bring a claim beyond the one (1) year period set forth in this **Section 9.3**.

## **10 INDEMNIFICATION; DEFENSE OF CLAIMS; INFRINGEMENT REMEDIES**

**10.1 By JustCQ.** JustCQ shall indemnify, defend, and hold Licensee harmless from and against any of the following unaffiliated third-party claims, actions, or demands ("**Claims**"), and any liability, damages, fines, penalties or other losses (including without limitation court costs and reasonable attorneys' fees) assessed against Licensee or agreed to be paid by JustCQ in settlement (collectively, "**Losses**") to the extent arising from such Claims:

**10.1.1** Claims alleging that the Product Solution or Site, as applicable (each, an "**Asset**") infringes or misappropriates any U.S. patent, copyright, trademark, trade secret or other intellectual property right of an unaffiliated third-party; **however**, JustCQ shall have no obligation under this **Section 10.1.1** for, or with respect to, Claims alleging infringement to the extent arising as a result of (a) the combination of an Asset by Licensee or another Permitted User with any software,

program, tools, services, documents or other items not supplied by JustCQ; (b) modification of an Asset by Licensee or another Permitted User, or by JustCQ as required by Licensee and in compliance with specific written design specifications or instructions provided by Licensee or another Permitted User; (c) the direct or contributory infringement of any process patent by Licensee through the use of an Asset in a manner that is different from the intended use and from the typical use contemplated by JustCQ's business and applicable Documentation; (d) use of an Asset by Licensee or another Permitted User other than in accordance with the terms and conditions of this Agreement; or (e) continued allegedly infringing activity by (or permitted or enabled by) Licensee or another Permitted User after Licensee has received notice of termination pursuant to **Section 8.2**; or (f) Licensee's use of a JustCQ trademark without our express written consent, or your use of a Product Solution after we notify you to stop due to a third-party claim.

**10.1.2** Claims arising out of JustCQ's breach of its confidentiality obligations set forth in this Agreement or a business associate agreement;

**10.1.3** Claims arising out of the fraud or willful misconduct of JustCQ; or any violation of applicable law or regulation by JustCQ; or

**10.1.4** any Claims by any employees or subcontractors of JustCQ based on, or arising during or out of, the applicable employment or contractual relationship with JustCQ, the termination of such relationship, or assertions that such employee or subcontractor is employed by (or is co-employed by) Licensee or is entitled to any medical, pension or other benefits of Licensee employees, but JustCQ shall have no liability or obligation to indemnify Licensee to the extent that any Claim under this **Subsection 10.1.4** is based on the acts or omissions of Licensee.

**10.2 By Licensee.** Licensee shall indemnify, defend, and hold JustCQ harmless from and against any of the following unaffiliated third-party Claims, and any Losses to the extent arising from such Claims:

**10.2.1** Claims alleging that JustCQ's permitted use of any Licensee Data infringes any patent, copyright, trademark, trade secret or other intellectual property right of a third-party;

**10.2.2** Claims arising out of Licensee's breach of its confidentiality obligations set forth in this Agreement, including the business associate agreement, if applicable;

**10.2.3** Claims arising out of the fraudulent or willful misconduct of Licensee; or any violation of applicable law or regulation by Licensee;

**10.2.4** Claims alleging that JustCQ's use of or access to any Licensee Third Party Product Solution infringes or misappropriates any U.S. contract, patent, copyright, trademark, trade secret or other intellectual property right of a third-party; or

**10.2.5** Claims to the extent arising out of any of the actions or causes set forth in **Section 10.1.1(a) – (f)** (which exempt JustCQ from its indemnification obligations for infringement Claims under specified circumstances).

**10.3 Procedure and Defense of Claims.** If any unaffiliated third-party Claim is commenced against a party entitled to indemnification hereunder (the "**Indemnified Party**"), (a) the Indemnified Party shall provide prompt written notice of any such action and of all prior related Claims to the other party (the "**Indemnifying Party**"), provided however, that the failure to give such prompt written notice shall not affect the indemnification provided hereunder except to the extent that such failure shall have actually prejudiced the Indemnifying Party; (b) the Indemnifying Party shall take control of the defense and settlement of such Claim; and (c) the Indemnified Party shall

reasonably cooperate, at the cost of the Indemnifying Party, in any investigation, defense or settlement of such Claim. The Indemnified Party may participate (at its own expense, except as described above) in any investigation, defense or settlement of such Claim.

**10.4 Infringement Remedy.** If an Asset becomes, or in JustCQ's reasonable opinion is likely to become, the subject of an infringement or misappropriation Claim, or if use of the Asset is permanently enjoined for any reason, JustCQ, at its option, shall (a) modify the Asset so as to avoid infringement, such that the modified Asset performs materially the same functions in a non-infringing manner; (b) procure the right for Licensee and Permitted Users to continue to use the Asset as set forth herein; or (c) if neither of the foregoing actions are feasible on commercially reasonable terms, then JustCQ shall have the right to terminate this Agreement without further liability except for its obligations under this **Article 10**.

**10.5 THIS ARTICLE 10 STATES EACH PARTY'S ENTIRE LIABILITY TO THE OTHER PARTY AND LICENSEE'S SOLE REMEDY FOR ANY INFRINGEMENT OR MISAPPROPRIATION CLAIMS CONCERNING THE ASSETS.**

**11 EXPORT CONTROLS.** Licensee may not, and agrees it shall not, export or re-export the Product Solution or Documentation outside of the United States

## **12 GENERAL**

**12.1 Assignment and Delegation.** This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their successors in interest and permitted assigns, except that neither this Agreement nor the obligations or rights hereunder nor any Product Solution License shall be assigned, delegated or transferred by Licensee without JustCQ's prior written consent. Any attempted assignment, transfer or delegation in violation of the foregoing will be void and of no effect. Notwithstanding the foregoing, approval of individuals as Permitted Users in accordance with the introductory section of this Agreement and **Section 5.1** shall not be considered an assignment, delegation or transfer of a Product Solution License, this Agreement or any rights or obligations hereunder, even if the Permitted User works for an affiliate or third-party consultant, contractor or vendor of Licensee's. JustCQ may assign this Agreement or its rights or obligations thereunder at any time without Licensee's consent. No assignment or transfer by either party shall relieve such party of any of its duties, obligations or liabilities under this Agreement.

**12.2 Entire Agreement.** This Agreement, including the Privacy Policy, applicable Product Solution descriptions and terms, and any other documents expressly incorporated into this Agreement by reference, constitutes the entire agreement between JustCQ and Licensee with respect to the subject matter contained herein and Licensee's use of JustCQ's Product Solutions and Site, superseding and replacing any and all previous agreements pertaining to such subject matter. All prior agreements, representations, statements, negotiations, understandings and undertakings, whether oral or in writing, are superseded hereby.

**12.3 Amendment.** JustCQ may amend this Agreement, the Privacy Policy, and any other agreements expressly incorporated herein and posted on our Site at any time and when we do, we shall update the "Last Updated" date at the top of the Agreement or other applicable document. If Licensee continues to use the Product Solutions and Site after the updated Agreement is posted it means you agree to the new terms so be sure to check back regularly. If you don't agree to the new terms, you must stop using the Product Solutions and Site and terminate your subscription in accordance with **Section 8**.

**12.4 Waiver.** The failure of JustCQ to enforce any right or provision of this Agreement shall not be deemed a waiver of such right or provision or of any other rights or provisions.

**12.5 No Agency.** Nothing in this Agreement shall be deemed to create an employer/employee, principal/agent, or joint venture relationship between Licensee and JustCQ.

**12.6 Governing Law.** The validity, construction, interpretation and performance of this Agreement and all disputes, claims, actions, suits or other proceedings arising hereunder shall be governed by and construed in accordance with the substantive laws of the State of New Jersey without giving effect to its conflicts of laws principles, and the parties agree that the Uniform Computer Information Transactions Act (UCITA) as adopted by any state is specifically excluded from application hereunder. Any action to enforce this Agreement must be brought in the State of New Jersey. This choice of jurisdiction does not prevent either party from seeking injunctive relief in any appropriate jurisdiction with respect to a violation of intellectual property rights.

**12.7 Severability.** If any of the provisions of this Agreement shall be deemed invalid or unenforceable, such invalidity or unenforceability shall not invalidate or render the entire Agreement unenforceable, but rather the entire Agreement shall be construed as if not containing the particular invalid or unenforceable provision or provisions, and the rights and obligations of JustCQ and Licensee shall be construed and enforced accordingly.

**12.8 Dispute Resolution.** The parties will in good faith endeavor to resolve any dispute, controversy, or claim arising out of or relating to this Agreement (each, a “**Dispute**”) amicably, on an informal basis through dialogue and cooperation. In the event a Dispute is not promptly resolved at operational levels of the organization, the parties shall escalate such Dispute by causing one or more senior executives for each party to meet in person (or otherwise as mutually agreed) to attempt to reach in good faith a resolution of the Dispute. Such meeting is to occur within seven (7) business days after either party first delivers to the other a written notice requesting such meeting, and the failure of a party to reasonably attend such meeting shall be rebuttable evidence of a lack of good faith in such negotiations. If this is unsuccessful, the parties shall submit the Dispute to non-binding mediation through the American Arbitration Association. Subject to other agreement of the parties, mediation will occur within thirty (30) business days after the parties agree to submit the Dispute to mediation or the earliest timeframe within which the mediation can be scheduled in accordance with the AAA mediator’s schedule. The parties shall mutually agree on an AAA mediator experienced in health care information systems, and each shall designate a representative(s) to meet with the mediator in good faith in an effort to resolve the Dispute. The specific format for the mediation shall be left to the discretion of the mediator and the designated party representatives and may include the preparation of agreed-upon statements of fact or written statements of position furnished to the other party. If the prior level of dispute resolution is unsuccessful and the Dispute is not resolved through mediation within sixty (60) days of the appointment of the mediator, or such other timeframe agreed to by the parties, the Dispute shall be resolved by binding arbitration with an arbitrator mutually agreed to by the parties and who is experienced in health care information systems. Both mediation and arbitration shall be conducted through the American Arbitration Association and in accordance with the AAA rules and procedures. The costs of any mediation or arbitration shall be borne equally between the parties. Notwithstanding the foregoing, nothing herein shall prevent either party from seeking to obtain equitable or injunctive relief for any breach or threatened breach hereof.

**12.9 Third Party Resources.** The Site may contain links to, or otherwise make available, third-party sites, services, products, information, content, materials, merchandise, functionality and/or other resources (“**Third Party Resources**”). These Third Party Resources and links and access to

them are provided for Licensee's convenience and reference only. JustCQ does not control, and makes no guarantees about, such Third Party Resources and, therefore, we are not responsible for such Third Party Resources, or any content posted on or made available by such Third Party Resources. JustCQ makes no guarantees about, and disclaims any express or implied representations or warranties about, such Third Party Resources, including without limitation the security of any materials, or the accuracy, relevance, timeliness, completeness, or appropriateness for a particular purpose of the information or the resources contained on or made available by such Third Party Resources or any other Internet sites. We reserve the right to terminate links or access from our Site to Third Party Resources at any time. Although JustCQ provides such links or access, JustCQ should not be construed in any way as endorsing, authorizing, or sponsoring any such Third Party Resources, or any content made available by or through such Third Party Resource. Because some Third Party Resources use automated search results or otherwise link you to Third Party Resources containing information that may be deemed inappropriate or offensive, JustCQ cannot be held responsible for the accuracy, copyright compliance, legality, appropriateness or decency of material contained in or made available by or through Third Party Resources, and you hereby irrevocably waive any claim against JustCQ with respect to such Third Party Resources. Your use of any Third Party Resources is subject to the third-party's terms, conditions and policies applicable to such third-party's products, services or materials (such as the third-party's terms of service or privacy policies). JustCQ is not responsible for the privacy and security of any information you share with that third-party, including your credit card or payment information. When you elect to receive any services from a third-party, you agree to hold that third-party responsible for any unauthorized use or disclosure of your confidential information.

**12.10 Force Majeure.** Neither party will be liable to the other for any delay or failure to perform any obligation under this Agreement (except for a failure to pay fees) if the delay or failure is due to events which are beyond the reasonable control of such party, such as a strike, blockade, war, act of terrorism (including cyber terrorism), riot, natural disaster, acts of God, epidemic, failure or diminishment of power or telecommunications or data networks or services, acts or omissions of government or regulatory agencies or bodies or other events of a magnitude or type for which precautions are not generally taken in the industry.

**12.11 Notices.** All notices, demands, or other communications permitted or required hereunder shall be deemed to have been sufficient and duly given if in writing and sent electronically as follows:

**Notices to Licensee:**

Shall be sent to the contact and email address identified by Licensee through its account setup.

**Notices to JustCQ:**

Shall be emailed to: **info@support.justcq.com**

In the event Licensee is a parent company, Licensor shall only be required to provide any notices hereunder to the parent company Licensee and shall not be required to provide notices to any subsidiary; the parent Licensee shall be responsible for forwarding any notice hereunder to any subsidiary.

**12.12 Interpretation.** The section and subsection headings used herein are for reference only and shall not limit or control any term or provision of this Agreement or the interpretation or construction hereof. As used herein, "including" shall mean "including, without limitation" and reference to "consent" by a party shall mean consent that is "not unreasonably withheld, conditioned or delayed."