

THIS USER AGREEMENT ESTABLISHES THE TERMS AND CONDITIONS FOR THE PROVISION TO AND USE BY THE USER OF THE PRODUCTS AND/OR SERVICES OF OFFICE ALLY, INC., A WASHINGTON CORPORATION, TOGETHER WITH ITS AFFILIATES (COLLECTIVELY, "OFFICE ALLY"). AS USED HEREIN, "USER" MEANS IN THE CASE OF AN INDIVIDUAL ACCEPTING THIS AGREEMENT ON HIS OR HER OWN BEHALF, SUCH INDIVIDUAL, OR IN THE CASE OF AN INDIVIDUAL ACCEPTING THIS AGREEMENT ON BEHALF OF A COMPANY OR OTHER LEGAL ENTITY, THE COMPANY OR OTHER LEGAL ENTITY FOR WHICH SUCH INDIVIDUAL IS ACCEPTING THIS AGREEMENT, AND AFFILIATES OF THAT COMPANY OR ENTITY (FOR SO LONG AS THEY REMAIN AFFILIATES) WHICH HAVE ENTERED INTO ANY ORDER(S) (AS DEFINED BELOW).

USER ELECTS TO PROCURE THE PRODUCTS AND/OR SERVICES FROM OFFICE ALLY THROUGH OFFICE ALLY'S WEB-BASED PORTAL PLATFORM (AN "ONLINE ORDER") OR AS SET FORTH IN ONE OR MORE WRITTEN ORDER FORMS (EACH AN "ORDER FORM"), AND IN ACCORDANCE WITH THE PRODUCT OR SERVICE DESCRIPTION SET FORTH IN THE APPLICABLE DATA SHEET. ONLINE ORDERS AND ORDER FORMS ARE HEREINAFTER REFERRED TO AS "ORDERS". THIS AGREEMENT EXPRESSLY APPLIES TO THE PROVISION AND USE OF ANY FREE OF CHARGE OFFICE ALLY PRODUCTS AND SERVICES.

THE USER ACCEPTS THIS AGREEMENT AND AGREES TO THE TERMS OF THIS AGREEMENT BY (1) CLICKING A BOX INDICATING ACCEPTANCE WITHIN OFFICE ALLY'S WEB-BASED PLATFORM, (2) EXECUTING AN ORDER THAT REFERENCES THIS AGREEMENT, OR (3) USING ANY PRODUCTS OR SERVICES PROVIDED BY OFFICE ALLY. IF THE INDIVIDUAL ACCEPTING THIS AGREEMENT IS ACCEPTING ON BEHALF OF A COMPANY OR OTHER LEGAL ENTITY, SUCH INDIVIDUAL REPRESENTS THAT THEY HAVE THE AUTHORITY TO BIND SUCH ENTITY AND ITS AFFILIATES TO THESE TERMS AND CONDITIONS, IN WHICH CASE THE TERM "USER" SHALL REFER TO SUCH ENTITY AND ITS AFFILIATES. IF THE INDIVIDUAL ACCEPTING THIS AGREEMENT DOES NOT HAVE SUCH AUTHORITY, OR DOES NOT AGREE WITH THESE TERMS AND CONDITIONS, SUCH INDIVIDUAL MUST NOT ACCEPT THIS AGREEMENT AND MAY NOT USE OFFICE ALLY PRODUCTS OR SERVICES.

The parties mutually agree that all procurement, access to and use of Office Ally products and services by User shall be in accordance with the following terms and conditions:

## 1. INCORPORATION OF ORDERS AND DATA SHEETS

User's procurement, access to and use of Office Ally products and services is only pursuant to one or more Orders, this Agreement and all applicable Data Sheets for the elected products and services. Orders and Data Sheets for the products and services elected hereunder are expressly incorporated into and made a part of this Agreement.

## 2. ACCESS; CONDITIONS OF USE; USER ACCOUNTS

**2.1** Subject to all of the terms and conditions of this Agreement, Office Ally hereby grants to User a non-exclusive, revocable, and limited right to access and use the products and services elected pursuant to Orders in strict compliance with this Agreement ("Access Right"). Notwithstanding the foregoing Access Right, Office Ally also has the right to change, suspend, or discontinue any (or all) aspects or features of products and/or services at any time, and from time to time, including the availability of any content or features on products and/or services. This Access Right granted to User under this Agreement will immediately terminate upon the expiration, cancellation or termination of this Agreement for any reason.

**2.2** Without limiting the generality of the foregoing, User agrees to all of the following provisions: (a) User will not upload to, distribute or otherwise publish through products and/or services any data, information, messages, text, works, material or any other content, including, without limitation, any personal identifiable information related to the User (collectively, "Content") that is unlawful, libelous, defamatory, invasive of privacy or publicity rights, harassing or otherwise objectionable; (b) User will not upload or transmit any Content that would violate the rights of any party or would otherwise create liability or violate any local, state, federal or international law; (c) User will not upload or transmit any Content that may infringe any patent,

trademark, trade secret, copyright, or other intellectual or proprietary right of any party anywhere; (d) User will not impersonate any person or entity or otherwise misrepresent the User's affiliation with a person or entity; (e) User will not distribute or publish unsolicited promotions, advertising, or solicitations for any goods, services or money, including junk mail and junk e-mail; and (f) User will not use products and/or services for purposes not authorized by Office Ally.

**2.3** In addition to any other right to terminate this Agreement, Office Ally hereby has the absolute right to immediately terminate, without warning, any account which it believes, in its sole discretion, breaches any of the provisions of this Section.

**2.4.** Office Ally products and services are subject to usage limits specified in Orders and Data Sheets (if any). If User exceeds a contractual usage limit, Office Ally and User will execute a new Order for additional usage quantities, and/or pay any invoice for excess usage.

**2.5.** User accounts may not be shared among individuals or used to provide access to Office Ally products and services to individuals who are not the individual associated with the corresponding user account. All Users associated with an account shall have the right to add, cancel or modify the account's access to products and services. By entering into this Agreement, User represents and warrants User, and all other users associated with the same account as User, has authority to add, cancel or modify the account's access to products and services.

## 3. COPYRIGHTS AND OTHER INTELLECTUAL PROPERTY RIGHTS; RESERVATION OF RIGHTS

**3.1** This Agreement shall not be interpreted to transfer any rights in any intellectual property from Office Ally to any Users. Office Ally or its licensors shall solely own all inventions, patents, trademarks/service marks, logos, images, graphics, content, reports, analysis, data, formulae, processes, techniques, software, website designs, all other copyrights, and all other intellectual property provided in, or made available by using, or otherwise contained in, the Office Ally Site and otherwise provided in furtherance of this Agreement (collectively, "Office Ally IP Assets").

**3.2** Any rights not expressly granted herein to User are reserved to Office Ally. In addition to any other conditions on User's Access Right as set forth in this Agreement, User's Access Right is subject to the following additional conditions: (i) User shall not modify, disassemble, decompile or reverse translate or create derivative works from any of the Office Ally IP Assets or otherwise attempt to derive any source code of the same or let any third party do the same; or (ii) no copyrighted material, content, or any other Office Ally IP Assets may be downloaded, modified, copied, displayed, transferred, distributed, sold, published, broadcast or otherwise used except as expressly stated either in such materials or in this notice without the express prior written permission of Office Ally (which Office Ally may or may not grant in its sole discretion). Unauthorized use is a violation of copyright and other intellectual property rights and is actionable under law.

#### **4. CONFIDENTIALITY; CUSTOMER DATA**

"Confidential Information" means all information disclosed by a party ("Disclosing Party") to the other party ("Receiving Party"), whether orally or in writing, that is designated as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure. Confidential Information of User includes electronic data and information submitted by or for User to Office Ally products or services ("Customer Data"); Confidential Information of Office Ally includes the products and services, and the terms and conditions of this Agreement and all Orders (including pricing). Confidential Information of each party includes business and marketing plans, technology and technical information, product plans and designs, and business processes disclosed by such party. However, Confidential Information does not include any information that (i) is or becomes generally known to the public without breach of any obligation owed to the Disclosing Party, (ii) was known to the Receiving Party prior to its disclosure by the Disclosing Party without breach of any obligation owed to the Disclosing Party, (iii) is received from a third party without knowledge of any breach of any obligation owed to the Disclosing Party, or (iv) was independently developed by the Receiving Party. As between the parties, each party retains all ownership rights in and to its Confidential Information. The Receiving Party will use the same degree of care that it uses to protect the confidentiality of its own confidential information of like kind (but not less than reasonable care) to (i) not use any Confidential Information of the Disclosing Party for any purpose outside the scope of this Agreement and (ii) except as otherwise authorized by the Disclosing Party in writing, limit access to Confidential Information of the Disclosing Party to those of its and its Affiliates' employees and contractors who need that access for purposes consistent with this Agreement and who have signed confidentiality agreements with the Receiving Party containing protections not materially less protective of the Confidential Information than those herein. User (i) represents

that it has the right and requisite authorization to provide Customer Data to Office Ally and will provide Customer Data to Office Ally in compliance with applicable legal requirements; and (ii) authorizes Office Ally to use, copy, store, modify and display Customer Data for Customer's benefit pursuant to this Agreement. In the event User shall no longer have rights to authorize Office Ally to use any Customer Data provided hereunder, User is obligated to promptly notify Office Ally in writing. Office Ally may collect, use, and disclose quantitative data derived from User's use of Office Ally products or services for industry analysis, benchmarking, analytics, marketing, and other lawful business purposes. Any such data will be in aggregate and anonymous form only and will not identify User, any Customer Data or any personal data. Neither party will disclose the terms of this Agreement or any Order to any third party other than its Affiliates, legal counsel and accountants without the other party's prior written consent, provided that a party that makes any such disclosure to its Affiliate, legal counsel or accountants will remain responsible for such Affiliate's, legal counsel's or accountant's compliance with this "Confidentiality" section.

#### **5. PRIVACY**

The Privacy Statement for products and/or services <https://cms.officeally.com/Home/privacypolicy.aspx> are hereby incorporated into this Agreement by this reference and User hereby agrees to comply with the same at all times. User agrees that: (i) if the User has any Content or any login or password associated with this Site, then User is solely responsible for maintaining the confidentiality of the same; and (ii) if the User has any login or password associated with this Site, then User (a) is solely responsible for all uses of its login and password regardless of whether these uses are authorized by User, and (b) User will immediately notify Office Ally of any unauthorized use of the User's login and password.

#### **6. LICENSE TO USE FEEDBACK**

User grants to Office Ally and its Affiliates a worldwide, perpetual, irrevocable, royalty-free license to use, distribute, disclose, and make and incorporate into its services any suggestion, enhancement request, recommendation, correction or other feedback provided by User relating to the operation of Office Ally products and/or services.

#### **7. INDEMNITY**

User will indemnify and hold Office Ally, its parents, subsidiaries, affiliates, officers, and employees, harmless, including costs and attorneys' fees, from any claim or demand made by any third party due to or arising out of the User's access to products and/or services, use of products and/or services, the violation or other breach of this Agreement by the User, or the infringement by the User, or any third party using the User's account, of any intellectual property or other right of any person or entity.

#### **8. DISCLAIMER OF WARRANTIES; DISCLAIMER OF LIABILITY**

**8.1** OFFICE ALLY MAKES NO REPRESENTATIONS ABOUT THE SUITABILITY OR ACCURACY OF THE SITE RESOURCES CONTAINED IN THIS SITE. ALL SITE RESOURCES ARE PROVIDED "AS IS" WITHOUT WARRANTY OF ANY KIND. OFFICE ALLY HEREBY DISCLAIMS ALL WARRANTIES AND CONDITIONS OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING ALL IMPLIED WARRANTIES AND CONDITIONS OF MERCHANTABILITY, OFFICE ALLY FOR A PARTICULAR PURPOSE, TITLE AND NON-

INFRINGEMENT. OFFICE ALLY DOES NOT WARRANT THAT THE SITE AND THE SITE RESOURCES ON THE SITE WILL BE UNINTERRUPTED OR ERROR-FREE, THAT THE DEFECTS WILL BE CORRECTED, OR THAT THE OFFICE ALLY SERVER MAKING THIS SITE AVAILABLE IS FREE OF COMPUTER VIRUSES OR OTHER HARMFUL COMPONENTS.

**8.2** IN NO EVENT SHALL ANY OFFICE ALLY PRODUCT OR SERVICE CONSTITUTE MEDICAL ADVICE, MEDICAL OR DIAGNOSTIC SERVICES OR PRESCRIBE MEDICATION. USE OF OFFICE ALLY PRODUCTS OR SERVICES IS NOT A SUBSTITUTE FOR THE PROFESSIONAL JUDGMENT OF HEALTH CARE PROVIDERS IN DIAGNOSING AND TREATING PATIENTS. USER ACKNOWLEDGES ITS SOLE RESPONSIBILITY FOR VERIFYING THE ACCURACY OF PATIENT INFORMATION (INCLUDING, WITHOUT LIMITATION, BY OBTAINING ALL APPLICABLE PATIENTS' MEDICAL AND MEDICATION HISTORY AND ALLERGIES), AND FOR ALL MEDICAL DECISIONS OR ACTIONS WITH RESPECT TO THE MEDICAL CARE, TREATMENT, AND WELLBEING OF USER'S PATIENTS, INCLUDING, WITHOUT LIMITATION, ALL USER'S ACTS OR OMISSIONS IN TREATING THE APPLICABLE PATIENT. ANY USE OR RELIANCE BY USER ON OFFICE ALLY PRODUCTS OR SERVICES SHALL NOT DIMINISH THAT RESPONSIBILITY. USER ASSUMES ALL RISKS ASSOCIATED WITH THE CLINICAL USE OF THE SERVICES BY USER, HEALTH CARE PROVIDERS, AND ITS PERSONNEL FOR THE TREATMENT OF PATIENTS.

**8.3.** OFFICE ALLY SHALL NOT BE LIABLE FOR ANY SPECIAL, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES OR ANY DAMAGES WHATSOEVER RESULTING FROM INCONVENIENCE, OR LOSS OF USE, RESOURCES OR PROFITS, WHETHER IN AN ACTION OF CONTRACT, NEGLIGENCE OR OTHER TORTIOUS ACTION, ARISING OUT OF OR IN CONNECTION WITH THE USE OR PERFORMANCE OF THE SITE, OR SITE RESOURCES MADE AVAILABLE THROUGH THIS SITE, OR ANY THIRD PARTY WEBSITES, EVEN IF OFFICE ALLY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR LOSSES. EXCEPT FOR THE EXCLUDED MATTERS, IN NO EVENT SHALL OFFICE ALLY'S TOTAL LIABILITY FOR ALL CLAIMS ARISING OUT OF OR AS A RESULT OFFICE ALLY'S PROVISION OF PRODUCTS AND/OR SERVICES TO USER EXCEED THE FEES PAID BY USER UNDER THE APPLICABLE ORDER(S).

## 9. FEES AND PAYMENT

User will pay all fees specified in Orders. Except as otherwise specified herein or in an Orders (i) payment obligations are non-cancelable and fees paid are non-refundable, and (ii) quantities purchased cannot be decreased during the relevant subscription term. If the Order specifies payment by credit card, User will provide valid and updated credit card information, and User authorizes Office Ally to charge such credit card for all fees due as and when due. If the Order specifies that payment will be by a method other than a credit card, Office Ally will invoice User in advance and otherwise in accordance with the relevant Order. Unless otherwise stated in the Order, invoiced fees are due net 30 days from the invoice date. User is responsible for providing complete and accurate billing and contact information to Office Ally.

## 10. TERMINATION

In the event User, or anyone other using User's privileges, violates the terms of this Agreement (as determined in Office Ally's discretion), Office Ally reserves the right to take any action

it deems appropriate, including, but not limited to, suspension of Access Rights or termination of this Agreement and Access Rights.

## 11. MISCELLANEOUS PROVISIONS

**11.1 Governing Law.** This Agreement shall be construed and governed in accordance with the laws of the State of Washington without regard to its conflict of laws principles. It is agreed by the parties that any action arising out of, in connection with, or in any way involving this Agreement or the parties hereto, shall be brought only in Washington (or federal, as applicable) courts with proper venue and jurisdiction and proper venue shall lie only in a court of competent jurisdiction located in Clark County. Each party shall comply with all applicable federal, state and local statutes, laws, ordinances, regulations, rules, orders and codes in the performance of its obligations hereunder.

**11.2 Notices.** Except as otherwise expressly provided in this Agreement, any communications between the parties, or notices to be given hereunder, will be given in writing by personal delivery, express courier, facsimile, or United States Postal Service, postage prepaid, to either User or Office Ally at the address or number set forth in the signature block to this Agreement, or to such other addresses or numbers as either Party may hereafter indicate pursuant to this Section. Unless otherwise provided in this Agreement, any communication or notice so addressed and mailed will be deemed to be given five (5) days after mailing. Unless otherwise provided in this Agreement, any communication or notice delivered by (i) facsimile will be deemed to be given when the transmitting machine generates a receipt of a successful transmission of the notice; or (ii) by email will be deemed to be given when the email has been generated and sent by the sender. Unless otherwise provided in this Agreement, any communication or notice given by personal delivery will be deemed to be given immediately upon such delivery, provided such delivery is made to the person indicated below.

**11.3 Remedies.** User acknowledges that monetary damages may not be a sufficient remedy for unauthorized use of Office Ally's Site, and therefore User agrees that Office Ally shall be entitled, without waiving any other rights or remedies, to such injunctive or equitable relief as may be deemed proper by a court or arbitration panel of competent jurisdiction without necessity of posting a bond and without having to plead and prove lack of an adequate remedy at law.

**11.4 Attorney Fees.** If any suit or action is filed by any party to enforce this Agreement or otherwise with respect to the subject matter of this Agreement, the prevailing party shall be entitled to recover reasonable attorney fees incurred in preparation or in prosecution or defense of such suit or action as fixed by the trial court and, if any appeal is taken from the decision of the trial court, reasonable attorney fees as fixed by the appellate court.

**11.5 Binding Effect; No Assignment by User; Permissible Assignment by Office Ally.** This Agreement shall be binding upon and inure to the benefit of each party's respective successors and lawful assigns; provided, however, that User may not assign this Agreement, in whole or in part. Any purported assignment in violation of this Section shall be void. Office Ally shall have the right to assign this Agreement, or any part of it, in its sole discretion to any party, and all covenants and

agreements hereunder shall inure to the benefit of and be enforceable by such successors and assigns.

**11.6 Entire Agreement; Modification; Waiver.** This Agreement, including each Exhibit attached hereto, constitutes the entire agreement between the parties with respect to the subject matter hereof. User may not be modify this Agreement or any term herein except by a written agreement dated subsequent to the date of this Agreement and signed by both parties. Office Ally reserves the right to modify products and services at any time in accordance with applicable Data Sheets, with or without notice to you. For example, we may add or remove functionality or features, and we may suspend or stop a particular feature altogether. We also reserve the right to charge a fee for any of our features at any time. If you don't like any changes, you can stop using our Sites at any time.

None of the provisions of this Agreement shall be deemed to have been waived by any act or acquiescence on the part of Office Ally, User, their agents, or employees, but only by an instrument in writing signed by an authorized employee of Office Ally and User. No waiver of any provision of this Agreement shall constitute a waiver of any other provision(s) or of the same provision on another occasion. If any part of this Agreement is determined to be invalid or unenforceable pursuant to applicable law, then the remainder of the Agreement shall continue in effect.