

# Cosign AI Platform Subscription Agreement

Revised March 27, 2024

**BY CLICKING “I AGREE”, COSIGN AND CUSTOMER AGREE TO THE TERMS OF THIS AGREEMENT AND THE BUSINESS ASSOCIATE AGREEMENT IN APPENDIX A.**

This Cosign AI Platform Subscription Agreement (“**Agreement**”) is an agreement by and between Cosign AI, Inc., (“**Cosign**”), and the Provider that has registered for a Plan (“**Customer**”). Cosign and Customer are sometimes referred to collectively as the “**Parties**” and individually as a “**Party**.”

## Section 1. Definitions

Capitalized terms used in this Agreement not otherwise defined will have the following definitions:

1.1 “**Account**” means a single user electronic account permitting Customer or Authorized Users to access and use the Platform.

1.2 “**Authorized User**” means (a) the Provider with a Provider Account, (b) the employee, agent or consultant of Customer using the Platform on behalf of Customer with an Account separate from the Provider Account, or (c) a Patient that has accepted Cosign’s standard end user license terms relating to the use of the Platform with an Account.

1.3 “**Confidential Information**” means any information that is proprietary or confidential to the Discloser or that the Discloser is obligated to keep confidential (e.g., pursuant to a contractual or other obligation owing to a third party). Confidential Information may be of a technical, business or other nature (including, but not limited to, information which relates to the Discloser’s technology, research, development, products, services, pricing of products and services, employees, contractors, marketing plans, finances, contracts, legal affairs, or business affairs).

1.4 “**Customer Data**” means any data or information provided by Customer or an Authorized User to Cosign, through the Platform or otherwise. For example, Customer Data includes log-in information for Authorized Users, sensitive, confidential, or personally identifiable information (including personally identifiable health information) that is transmitted by, processed, or stored in electronic media by Cosign.

1.5 “**Discloser**” means a Party that discloses any of its Confidential Information to the other Party.

1.6 “**Documentation**” means the online documentation relating to the Platform furnished or made available by Cosign to Customer.

1.7 “**Feedback**” means information and feedback (including, without limitation, ideas, proposals, questions, comments, suggestions, or other materials) regarding the performance, features, functionality and overall Customer experience using the Platform.

1.8 “**Health Care Services**” means health care consultations, therapies, or treatments provided, supervised, or prescribed by a Provider to a patient while using the Platform.

1.9 “**Informed Consent**” means the agreement between a patient and a Provider to receive and provide, respectively, Health Care Services.

1.10 “**IP Rights**” means any patent, copyright, trademark, service mark, trade name, trade secret, know-how, moral right or other intellectual property right under the laws of any jurisdiction, whether registered, unregistered, statutory, common law or otherwise (including any rights to sue, recover damages or obtain relief for any past infringement, and any rights under any application, assignment, license, legal opinion or search).

1.11 “**IP Dispute**” means a dispute, cause of action, claim, or controversy relating to a Party’s IP Rights.

1.12 “**Patient**” means an Authorized User that is receiving Health Care Services from a Provider using the Platform in accordance with the Cosign’s standard end user license.

1.13 “**Plan**” means the subscription type that determines the features and allowable number of patient encounters on the Platform.

1.14 “**Platform**” means the software-as-a-service platform, provided by Cosign under this Agreement along with any improvements, updates, bug fixes or upgrades thereto used to provide the Services. The term Services is incorporated into the definition of Platform.

1.15 “**Policies**” means all restrictions described on the Site related to the Platform, and any other policies and procedures related to Customer’s and Authorized Users’ access and use of the Platform.

1.16 “**Provider**” means any Customer or Authorized User who provides Health Care Services as an independent licensed, accredited, or certified health care professional, which shall be either a medical doctor, physician assistant, nurse practitioner, nurse or other such clinical professionals.

1.17 “**Provider Account**” means an Account registered with a Provider.

1.18 “**Recipient**” means a Party that receives any Confidential Information of the other Party.

1.19 “**Services**” means the services rendered by Cosign through the Platform, including but not limited to AI assisted visit intake and information gathering from the Patient, AI assisted clinical documentation generation and scribing services, and other AI assisted clinical insights.

1.20 “**Site**” means <https://co-sign.ai/>, and any successor or related web site designated by Cosign.

1.21 “**Third Party Services**” means software or services acquired or licensed by Cosign from a third party that is included in Platform or otherwise made available to Customer or its Authorized Users.

1.22 “**Unauthorized Use**” means any use, reproduction, modification, distribution, disposition, possession, examination, inspection, viewing, disclosure or other activity involving the Platform or Documentation of Cosign that is not expressly authorized under the Agreement or in writing by Cosign.

## **Section 2. Customer’s Rights in the Platform and Customer Responsibilities**

**2.1 Rights to Use the Platform and Services.** Subject to the terms and conditions of this Agreement and in compliance with any and all applicable laws, Cosign hereby grants to Customer a nonexclusive, nontransferable (except as expressly set forth in this Agreement), nonsublicensable, revocable right during the Term to: (a) access and use the Platform; and (b) invite and enable up to the specified number Authorized Users within the limitations of the specified number of encounters under Customer’s selected Plan.

**2.2 Restrictions.** Customer shall not (and may not allow any third party to): (a) modify, disassemble, decompile, reverse engineer or otherwise make any derivative use of the Platform or use or access the Platform to build a competitive product or service; (b) use any data mining, robots or similar data gathering or extraction methods except as provided by the Platform; (c) download (other than page caching) any portion of the Platform or any information contained on the Platform; (d) perform or disclose any benchmarking or performance testing of the Platform; (e) rent, lease, copy, provide access to or sublicense the Platform or Customer Data to a third party except as authorized in this Agreement; (f) remove or obscure any proprietary notices or labels, or (g) use the Platform other than for its intended use and as expressly permitted hereunder. During and after the Term, Customer will not assert, nor authorize, assist or encourage any third party to assert any patent infringement or other intellectual property infringement claim regarding the

Platform against Cosign, its affiliates, independent contractors or service providers, or any of their respective members, directors, officers, employees and agents (collectively, "**Cosign Parties**").

**2.3 Changes to Platform.** Cosign may change the Platform from time to time, including changing or removing features or functionality from the Platform. Cosign will notify Customer of any discontinuation of the Platform.

**2.4 Suspension of Platform.** Cosign may, in its sole discretion, immediately temporarily suspend access to or use of the Platform by Customer if Customer violates a material restriction or obligation in this Agreement (including any Policies), or if in Cosign's reasonable judgment, any component of the Platform is about to suffer a significant threat to security or functionality. Cosign will provide advance notice to Customer of any such suspension in Cosign's reasonable discretion based on the nature of the circumstances giving rise to the suspension. Cosign will use reasonable efforts to re-establish the affected Platform promptly after Cosign determines, in its reasonable discretion, that the situation giving rise to the suspension has been cured. Cosign may terminate access to the Platform if any of the foregoing causes of suspension are not cured within thirty (30) days after Cosign's initial notice thereof. Any suspension or termination by Cosign under this Section 2.4 will not excuse Customer from its obligation to make payment(s) under this Agreement. In addition, if any Authorized User breaches its obligations under this Agreement or Cosign's standard end user license agreement, as applicable, or the Policies, then, in addition to any other remedies available to Cosign, Cosign will have the right, in its sole discretion, to immediately suspend access to the Platform by such Authorized User. Any suspension under this Section shall remain in effect until the applicable breach, if curable, is cured.

## **2.5 Customer Responsibilities.**

(a) Customer shall use the Platform in compliance with all applicable federal, state, and local laws, regulations, rules, and ordinances, and, as between the Parties, such duties shall solely and exclusively be Customer's responsibility, including any laws related to the provision of Health Care Services or applicable to Providers, or relating to the privacy and security of "Protected Health Information" or "PHI" as defined under the Health Insurance Portability and Accountability Act ("**HIPAA**"). When using the Platform to render Health Care Services to Patients Customer is solely responsible for: (i) complying with all applicable laws (including without limitation licensure requirements, accreditation requirements, professional standards, payor and regulatory requirements applicable to rendering treatment services to patients; (ii) all medical and professional decision making; (iii) if telehealth services are provided, ensuring appropriate documentation is maintained related to the telehealth services in a manner compliant with applicable law and payor standards, and the risks associated with using telehealth services; (iv) obtaining Informed Consent and Notice of Privacy Practices from each Patient; (v) obtaining and maintaining Patient consent to record clinical encounters and for use of the Platform; and (vi) maintaining the equipment and devices used for accessing the Platform in a manner that ensures the security and functionality of the Health Care Services and health data.

**2.6 Professional Judgment.** The Platform is a technology platform and does not provide any clinical decision support or other clinical assistance to any Provider. Provider shall be responsible for all clinical and Patient treatment decisions based on the independent exercise of its professional judgement consistent with the standard of care.

## **Section 3. Eligibility; Registration; Data Practices; Cosign Responsibilities**

**3.1 Eligibility.** Customer must ensure all Authorized Users are at least 18 years of age. Customer represents and warrants that it and all Authorized Users using the Platform on its behalf are not: (a) a resident of any country subject to a United States embargo or other similar United States export restrictions; (b) on the United States Treasury Department's list of Specifically Designated Nationals; (c) on the United States Department of Commerce's Denied Persons List or Entity List; or (d) on any other United States export control list.

3.2 **Registration.** In order to access and use the Platform, Customer and each Authorized User will create an Account. Shared Account credentials are prohibited. Customer will ensure that Customer and each of its Authorized Users: (a) provide and maintain accurate, truthful, current and complete Account information; (b) maintain the security of the Account by not sharing its password with others and restricting access to the Account and their computer or mobile device; and (c) promptly notify Cosign if Customer or any Authorized User discovers or otherwise suspects any security breaches related to such user's Account. Cosign may prohibit an Authorized User's access to and use of the Platform at any time for any reason, including upon request from Customer. Customer, and not Cosign, is responsible for maintaining the security of Accounts, passwords, and files.

3.3 **Violations.** Customer is responsible for any access to or use of the Platform under each Authorized User's Account, including by any third parties that use any Authorized User's Account. The acts or omissions of any Authorized User or third party under an Authorized User's Account are considered the Authorized User's acts or omissions, as applicable.

3.4 **Equipment.** Below are the minimum equipment Customer must have to successfully use the Platform: Hardware requirements include one of the following:

(a) PC with a modern browser, or smartphone / tablet with iOS, or Android operating systems. Devices should be moderately modern to run the app, such as iOS 12+, Android 5.1+ (sdk ver. 22+), up-to-date modern browser.

(b) Internet connection and the devices must be connected to the internet.

(c) Microphone.

Customer is responsible for obtaining, maintaining, and ensuring the security of any equipment and ancillary services needed to connect to, access or otherwise use the Platform, including, without limitation, modems, hardware, servers, software, networking, and third party services to send/receive messages.

### 3.5 Cosign Responsibilities.

(a) Cosign Personnel. Cosign is responsible for the performance of its employees and contractors and their compliance with Cosign's obligations under this Agreement. Cosign may use non-employee contractors or agents for the purpose of providing the Platform.

(b) Security; Platform Operation. Cosign has established, and will maintain during the Term, commercially reasonable administrative, physical and technical safeguards designed for the protection of Customer Data. Cosign will provide or arrange for all facilities and equipment that it reasonably considers necessary to host and maintain the Platform.

## Section 4. Subscription Type and Term

4.1 **Subscription Type.** Customer may select either a monthly subscription or a yearly subscription.

4.2 **Term for Monthly Subscriptions.** Monthly subscriptions shall automatically renew each month until Customer submits written notice to unsubscribe from the Platform. For monthly subscriptions, termination shall occur on the renewal date, i.e., the month following Customer's written notice to unsubscribe.

4.3 **Term for Yearly Subscriptions.** Yearly subscriptions will continue for the entire year as of the date of subscription and shall automatically renew for additional one year periods on the renewal date, i.e., the anniversary date of the subscription, unless and until Customer submits written notice to unsubscribe from the Platform at least sixty (60) days before the renewal date. Upon receipt of Customer's written notice to unsubscribe during the requisite notice period provided in this Section 4.3, termination shall occur on the

immediately approaching renewal date. If notice is provided after the requisite notice period, termination shall occur on the following renewal date.

**4.4 Early Termination for Material Breach.** Either Party may terminate this Agreement if the other Party fails to cure any material breach of this Agreement within thirty (30) days after written notice. Such notice must include, but is not necessarily limited to, a statement of the facts relating to the breach or default, the provisions of this Agreement that are in breach or default, the action required to cure the breach or default, and the intent to terminate within thirty (30) days, or a later date as specified in such notice, after receipt of such notice.

**4.5 Effect of Termination.** In the event of any termination or expiration of the Term:

(a) all of Customer's and each Authorized User's rights under this Agreement will immediately terminate, the license granted to Customer in this Agreement will terminate and Customer and all Authorized Users will immediately cease any access or use of the Platform, provided that, Cosign may continue to host Customer Data of Authorized Users who are patients and make available such Customer Data through the Platform to such patients after termination;

(b) If Cosign terminates the Agreement for material breach by Customer under Section 4.4, then Customer will remain responsible for the remaining balance of the Fees and Customer must pay within thirty (30) days all such amounts, as well as all sums remaining unpaid under the Agreement plus related taxes and expenses. If Customer terminates the Term for material breach by Cosign under Section 4.4, then Cosign shall refund to Customer within thirty (30) days of termination any unused pre-paid Fees on a pro rata basis for the remaining Term following the month in which the termination is effective.

Cosign will permit Customer to access the Platform for thirty (30) days after date of termination solely in order to download a copy of any Customer Data from the Platform. Thereafter, Cosign will have the right, but not the obligation, to maintain any Customer Data or to forward any Customer Data to Customer or any third party;

**4.6 Survival.** Sections 1, 2.2, 3.3, 4.5, 6, 7, 8, 9.1, 10, 11, 12, and 13 of this Agreement will continue to apply in accordance with their terms after the termination of this Agreement.

## **Section 5. Pricing, Fees and Payment**

**5.1 Fees and Payment.** Amounts owed for use of the Platform ("**Fees**") are based on the Plan and subscription type selected by Customer. Fees for yearly subscriptions shall be less than monthly subscriptions. For monthly subscriptions, Customer shall be charged the monthly Fee based on the Plan selected. For yearly subscriptions, Customer will be charged the yearly Fee based on the Plan selected. Customer shall place a card on file and Fees shall be automatically debited on the renewal date. Customer hereby agrees that Cosign may collect Fees using the Customer's card on file until termination of the Platform under Section 4 above.

**5.2 Pricing.** All prices are shown in U.S. dollars and applicable taxes and other charges, if any, are additional. Cosign reserves the right to change the Fees or applicable charges and to institute new charges and Fees at the end of each renewal date, upon thirty (30) days prior notice to Customer (which may be sent by email).

**5.3 Taxes.** Customer is responsible for any sales, duty or other governmental taxes or fees due with respect to Customer's use of the Platform and Fees. Cosign will collect applicable sales tax if it determines that Cosign has a duty to collect sales tax. Cosign will present any taxes that it is required to collect at checkout, but note that actual taxes charged may be adjusted from the amount shown at checkout. Several factors may cause this, such as variances between processor programs and changes in tax rates.

## Section 6. Indemnification

6.1 **By Customer.** Customer will defend, indemnify, and hold harmless the Cosign Parties from and against all claims, damages, losses, liabilities, costs, and expenses (including reasonable attorneys' fees) arising out of or relating to any third party or Authorized User claim concerning: (a) any use or disclosure by Customer or an Authorized User (including any Unauthorized Use) of the Platform; (b) any use or disclosure by Customer or Authorized User of any information pertaining to a Patient (c) any acts, omissions, or negligence of Customer or its representatives in connection with the Platform or a Provider's provision of Health Care Services (including any acts, omissions, or negligence regarding the care or treatment of any Patient by Provider or any of its representatives); (d) bodily injury, including death, to third parties or any acts or omissions that constitute professional malpractice, negligence, or willful misconduct by any Provider or any of its representatives; or (e) any failure of any Provider or any of their representatives to comply with applicable laws and regulations (including any laws or regulations concerning the confidentiality, privacy, or security of health care records or health information). If Cosign is obligated to respond to a third-party subpoena or other compulsory legal order or process described above, Customer will also reimburse Cosign for reasonable attorneys' fees, as well as the time and materials spent by Cosign's employees and contractors responding to the third-party subpoena or other compulsory legal order or process at Cosign's then-current hourly rates. For any claims under this Section 6.1, Customer shall obtain Cosign's written consent prior to (i) selecting and retaining counsel to defend against any claim under this Section 6.1 and (ii) agreeing to any settlement. Cosign may also assume control of the defense and settlement of any claim subject to this Section 6.1 at any time.

6.2 **By Cosign.** Cosign will defend, indemnify, and hold harmless Customer from and against all claims, damages, losses, liabilities, costs, and expenses (including reasonable attorneys' fees) arising out of or relating to any third party claim that alleges that: (a) the Platform infringes, misappropriates, or violates any United States patent, United States trademark or United States copyright or trade secret, or (b) Cosign has suffered a security breach as a result of its failure to meet its security obligations under this Agreement and such breach resulted in a loss of sensitive, confidential, or personally identifiable Customer Data; provided, that Customer (i) gives Cosign prompt written notice of the claim, (ii) authorizes Cosign to control the defense and settlement of the claim, (iii) provides such assistance in connection with the defense and settlement of the claim as Cosign may reasonably request, (iv) does not settle or compromise the claim without the prior written consent of Cosign and (v) complies with any settlement or court order made in connection with the claim. Further, should the Platform become, or in Cosign's opinion be likely to become, the subject of a claim of infringement or misappropriation, Cosign will, at its election and expense, (1) obtain for Customer the right to continue using the Platform, (2) replace or modify the Platform to become non-infringing or non-misappropriating but functionally equivalent, or (3) if neither (1) nor (2) is commercially feasible, terminate this Agreement and refund any unused and pre-paid Fees. Cosign's indemnity obligations under this Section 6.2 do not apply to any claim resulting from: (w) Customer or any Authorized User acts or omissions; (x) use not in accordance with this Agreement; (y) modifications, damage, misuse or other action of Customer or any third party; or (z) any failure of Customer to comply with this Agreement.

## Section 7. Ownership

7.1 **The Platform.** As between Cosign and Customer, Cosign owns all right, title, and interest in and to the Platform, together with all IP Rights therein or thereto. Except as otherwise specified in Section 2.1 of this Agreement, Customer does not obtain any rights under this Agreement from Cosign to the Platform, including any related IP Rights.

7.2 **Feedback.** Customer and Authorized Users will provide Cosign with Feedback. Customer will not, and will ensure Authorized Users do not, provide any such Feedback to any third party without Cosign's prior written consent in each instance. Any Feedback that Customer or an Authorized User provides to Cosign may or may not be treated confidentially by Cosign. Cosign will own, and Customer and Authorized Users hereby assign, all exclusive rights, including, without limitation, all IP Rights, in and to Feedback and Cosign

will be entitled to the unrestricted use and dissemination of Feedback for any purpose, commercial or otherwise, without acknowledgment or compensation to Customer or any Authorized Users.

**7.3 Trademarks.** As between Cosign and Customer, each Party owns all right, title and interest in and to its own trademarks, service marks, service or trade names, logos, and other designations and those of its affiliates (collectively, "**Marks**"). Marks and any goodwill arising out of the use of the such Marks will remain with and belong to that Party and its licensors. The Cosign Marks may not be copied, imitated or used without the prior written consent of Cosign or the applicable trademark holder. Customer hereby grants to Cosign the right to use the Customer Marks in connection with Cosign's performance of the Services and in providing the Platform.

**7.4 Additional Protection of Proprietary Rights.** Customer will not infringe or violate, and will take appropriate steps and precautions for the protection of, the Platform and related IP Rights referred to in Section 7.1. Customer will immediately notify Cosign of any Unauthorized Use that comes to Customer's attention. In the event of any Unauthorized Use relating to the activities of Customer or Authorized Users, Customer will take all steps reasonably necessary to terminate such Unauthorized Use. Customer will immediately notify Cosign of any legal proceeding initiated by Customer in connection with any such Unauthorized Use. Cosign may, at its option and expense, assume control of such proceeding, in which case it will have exclusive control over the prosecution and settlement of the proceeding, and Customer will provide such assistance related to such proceeding as Cosign may reasonably request. Customer will assist Cosign in enforcing any settlement or order made in connection with such proceeding.

### **7.5 Customer Data.**

(a) Cosign will process Customer Data on behalf of Customer in connection with the Services. Customer hereby instructs and authorizes Cosign to: (1) use Customer Data to provide Services to and communicate with Customer and its Authorized Users; and (2) use data related to Customer's usage of the Services in an aggregated or de-identified manner ("**Aggregated Customer Usage Data**") to monitor the performance of the Services, improve the Services, and to develop new product and service offerings (collectively, the "**Purpose**"). Except as provided in this Section 7, Cosign obtains no rights under this Agreement from Customer to the Customer Data, including any related IP Rights. Cosign owns all right, title, and interest in and to any Aggregated Customer Usage Data, which shall not be considered Customer Data.

(b) Cosign reserves the right to: (i) disclose Customer Data to its service providers solely in connection with the Purpose and where required by applicable law or court order; (ii) disclose Aggregated Customer Usage Data to third parties; (iii) copy, use, modify, distribute, display, disclose, and otherwise process Customer Data in connection with its business services and offerings; (iv) copy, modify and use Customer Data solely for internal operations and functions, including, but not limited to, operational analytics, machine learning, improvement of the Platform and Services (including training the machine learning algorithm to better operate the Platform and Services), reporting, internal financial reporting and analysis, audit functions and archival purposes; and (v) store Customer Data in the United States and other countries.

(c) By using or distributing access to the Services, Customer consents, on behalf of Customer and Authorized Users (as applicable), to have all Customer Data (including personal information) transferred to and processed in the United States or any other country in which Cosign operates, where Customer or Authorized Users may have fewer rights than under local law.

(d) Customer will provide all legally required notices and collect all legally required authorizations and consents to ensure that Customer and Cosign may collect, use, disclose and otherwise process Customer Data in accordance with the terms of this Agreement without violating any applicable laws, including by providing notice of a privacy policy that accurately describes how Customer collects, uses and discloses information (including Customer Data) from Authorized Users, as applicable. Without limiting the generality of the foregoing, Customer will ensure that Customer's privacy policy discloses that information (including Customer Data) from Authorized Users may be shared with Cosign, including as described in this Section 7.

To the extent Cosign collects, processes, or stores Customer Data that includes personally identifying information that describes or relates to Authorized Users residing in or citizens of California, Cosign will not collect, retain, use, or disclose such Customer Data for such Authorized Users for any purpose other than as necessary for performing the Services. Without limiting the foregoing, Cosign will not sell such Customer Data. Notwithstanding the foregoing, solely for the purposes of developing, testing, or altering its products and services, Cosign may use Customer Data of California residents that qualifies as “medical information” as defined under California’s Confidentiality of Medical Information Act, provided that Customer first obtains appropriate authorization for such use. Customer agrees to obtain authorization for such use from patients or Authorized Users who are California residents or citizens if requested in writing by Cosign.

(e) The Parties acknowledge and agree that to the extent Provider transacts in standardized transactions covered under 45 C.F.R. Part 162, Cosign is a business associate of Customer under the Health Insurance Portability and Accountability Act of 1996, as amended, and its implementing regulations (“**HIPAA**”) and will enter the Business Associate Agreement attached as **Appendix A**.

## **Section 8. Limited Warranties, Covenants, and Remedies**

8.1 **Customer Warranties and Covenants.** Customer represents and warrants that:

- (a) it is a corporation validly organized and in good standing under the laws of its state of incorporation;
- (b) it has the legal power to enter into this Agreement;
- (c) Customer (if Customer is a Provider) and the Providers engaged by Customer to render Health Care Services are in good standing with all necessary governmental and professional society approvals to practice their profession without supervision or restriction, in-person and/or using a remote access electronic technology platform (telehealth) in each state where the Provider is providing Health Care Services;
- (d) Neither Customer (if Customer is a Provider) Nor any Provider engaged by Customer has a history of any final disciplinary actions related to Patient care or treatment in any state or other jurisdiction of governmental or professional society;
- (e) it will not use the Platform to provide emergency Health Care Services to any patient or Patient;
- (f) it will ensure that Health Care Services are provided to Patients without regard to race, color, gender, national origin, religion, sexual identity, sexual orientation, veteran status, or disability;
- (g) it will ensure that the Platform is sufficient to enable Customer and (and any Authorized User that is a Provider) to provide Health Care Services to all Patients in a manner consistent with the standard of care required for its profession;
- (h) it will use, disclose, and store any Patient health information in accordance with Customer’s Notice of Privacy Practices and this Agreement;
- (i) neither it nor any Authorized Users that are Providers will use the Platform to transmit any messages that are unrelated to the delivery of Health Care Services (e.g., advertisements, solicitations, or objectionable messages); and
- (j) as of the Effective Date it and all of its affiliates, officers, directors, and employees, and all of its Providers (collectively “**Controlled Group**”) are in material compliance with all laws and regulations concerning their business and professional activities including but not limited to any that govern or regulate the practice of medicine, the provision of medical or Health Care Services, and that all Providers are, and will remain at all times during the Term, duly authorized or approved to practice his/her profession by all applicable governmental authorities and/or professional societies (collectively “**Applicable Law**”). Customer

and the Controlled Group will remain in material compliance with all Applicable Law during the Term and during any subsequent period when it continues to have obligations under this Agreement to Cosign.

8.2 **Cosign Warranties.** Cosign represents and warrants that:

(a) the Platform and Services will perform and conform in all material respects with the applicable Documentation when operated in accordance with the applicable Documentation;

(b) it will provide the Services with commercially reasonable care and skill and in material compliance with applicable laws, and each of the personnel furnished to perform Services hereunder will have the proper skill and training so as to be able to perform Services to which he/she is assigned in the above referenced manner, and that Cosign has sufficient number of personnel to provide all Services contemplated;

(c) it is a corporation validly organized and in good standing under the laws of the State of Delaware;

(d) Cosign has the right to provide access to the software and Platform to Customer, and that neither the software, Services nor Customer's access to or use of the same infringes, violates, or misappropriates the IP Rights of any third party;

(e) there exists no agreement or restriction that would interfere with or prevent Cosign from entering into this Agreement or rendering Services or providing use of the Platform described herein.

(f) Cosign will use reasonable efforts to ensure the Platform is free from material errors or other defects.

8.3 **Remedy.** Customer must give Cosign notice of a material defect or nonconformance within 30 days from when Customer becomes aware of such defect or nonconformance. Cosign's sole obligation with respect to a breach of the warranties in Section 8.2 will be to use commercially reasonable efforts to correct any nonconformance of the Platform or Services.

8.4 **DISCLAIMER.** EXCEPT AS SET FORTH IN SECTION 8.2: (A) TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, THE SITE AND THE PLATFORM ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS WITHOUT WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, AND CUSTOMER HEREBY WAIVES, RELEASES, AND DISCLAIMS, ALL OTHER WARRANTIES OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE REGARDING THE PLATFORM OR THE INFORMATION AVAILABLE VIA THE PLATFORM, INCLUDING ANY WARRANTY THAT THE PLATFORM WILL BE UNINTERRUPTED, ERROR FREE OR FREE OF HARMFUL COMPONENTS, THAT THE INFORMATION AVAILABLE VIA THE PLATFORM WILL BE ACCURATE OR COMPLETE, OR THAT ANY MATERIALS OR CUSTOMER DATA PROVIDED BY CUSTOMER, AN AUTHORIZED USER, OR A THIRD PARTY WILL BE SECURE OR NOT OTHERWISE LOST OR DAMAGED; (B) EXCEPT TO THE EXTENT PROHIBITED BY LAW, COSIGN AND ITS SUPPLIERS DISCLAIM ALL WARRANTIES, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY, SATISFACTORY QUALITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, OR QUIET ENJOYMENT, AND ANY WARRANTIES ARISING OUT OF ANY COURSE OF DEALING OR USAGE OF TRADE.

## **Section 9. Limitations of Liability; Insurance**

9.1 **Limitation of Liability.** IN NO EVENT SHALL ANY OF THE COSIGN PARTIES BE LIABLE FOR ANY DIRECT, SPECIAL, INDIRECT OR CONSEQUENTIAL DAMAGES, OR ANY OTHER DAMAGES OF ANY KIND, INCLUDING BUT NOT LIMITED TO LOSS OF USE, LOSS OF PROFITS OR LOSS OF CUSTOMER DATA, WHETHER IN AN ACTION IN CONTRACT, TORT (INCLUDING BUT NOT LIMITED TO NEGLIGENCE) OR OTHERWISE, ARISING OUT OF OR IN ANY WAY CONNECTED WITH THE USE OF OR INABILITY TO USE THE PLATFORM OR THE SITE, INCLUDING THE INFORMATION, CONTENT AND MATERIALS CONTAINED THEREIN. IN NO EVENT WILL THE AGGREGATE LIABILITY OF ANY OF THE COSIGN PARTIES, WHETHER IN CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE, WHETHER ACTIVE, PASSIVE OR IMPUTED), PRODUCT LIABILITY, STRICT LIABILITY OR OTHER

THEORY, ARISING OUT OF OR RELATING TO THIS AGREEMENT EXCEED THE GREATER OF (1) THE TOTAL AMOUNTS PAID BY CUSTOMER, IF ANY, TO COSIGN UNDER THIS AGREEMENT FOR THE 30 DAYS PRIOR TO THE DATE OF THE EVENT GIVING RISE TO LIABILITY OR (2) \$100.

9.2 **Insurance.** Customer will obtain and maintain such insurance policies as may be required by applicable law and as follows: (i) Commercial General Liability written on an occurrence form, including personal and advertising injury with limits of \$1,000,000 per occurrence and \$2,000,000 general aggregate; (ii) Directors and Officers Liability of \$1,000,000 per occurrence and in the aggregate; and (iii) Workers Compensation Insurance or similar local scheme: Statutory Limits requirements of the state(s) or country in which service is to be performed.

## **Section 10. Confidential Information**

Each Party reserves any and all right, title and interest (including, without limitation, any IP Rights) that it may have in or to any Confidential Information that it may disclose to the other Party under this Agreement. The Recipient will protect Confidential Information of the Discloser against any unauthorized use or disclosure to the same extent that the Recipient protects its own Confidential Information of a similar nature against unauthorized use or disclosure, but in no event will use less than a reasonable standard of care to protect such Confidential Information; provided that the Confidential Information of the Discloser is conspicuously marked or otherwise identified as confidential or proprietary upon receipt by the Recipient. The Recipient will use any Confidential Information of the Discloser solely for the purposes for which it is provided by the Discloser. This Section 10 will not be interpreted or construed to prohibit any use or disclosure of information: (a) that was known to Recipient prior to receiving the same from the Discloser in connection with this Agreement; (b) that is independently developed by the Recipient; (c) that is acquired by the Recipient from another source without restriction as to use or disclosure; (d) that is necessary or appropriate in connection with the Recipient's performance of its obligations or exercise of its rights under this Agreement; (e) that is required by applicable law, provided that the Recipient uses reasonable efforts to give the Discloser reasonable advance notice thereof to afford the Discloser an opportunity to intervene and seek an order or other appropriate relief for the protection of its Confidential Information from any unauthorized use or disclosure; or (f) that is made with the written consent of the Discloser. In the event of any breach or threatened breach by the Recipient of its obligations under this Section 10, the Discloser will be entitled to injunctive and other equitable relief to enforce such obligations.

## **Section 11. Non-Interference.**

Customer acknowledges that Cosign's relationships with its employees, agents, suppliers, customers and vendors are valuable business assets. Accordingly, Customer agrees that, during the period of this Agreement and for one (1) year thereafter, Customer shall not (for itself or for any third party) divert or attempt to divert from Customer any business, employee, agent, supplier, client, customer or vendor, through solicitation or otherwise.

## **Section 12. Governing Law, Dispute Resolution and Notice**

12.1 **Governing Law.** This Agreement will be interpreted, construed and enforced in all respects in accordance with the laws of the State of California, without reference to its choice of law principles to the contrary. The 1980 UN Convention on Contracts for the International Sale of Goods or its successor will not apply to this Agreement. Subject to Section 12.2, Customer hereby consents to the jurisdiction and venue of the state and federal courts located in Tarrant County, Texas with respect to any claim arising under this Agreement.

12.2 **Dispute Resolution.** This section shall govern all disputes except disputes pertaining to IP Rights.

(a) Arbitration. Any dispute, claim or controversy arising out of or relating to this Agreement termination, enforcement, interpretation or validity thereof, including the determination of the scope or applicability of this agreement to arbitrate, shall be determined by arbitration in accordance with JAMS Comprehensive Arbitration Rules and Procedures before one arbitrator. Each of the Parties hereto hereby irrevocably waives any and all right to trial by jury in any judicial proceeding permitted under this Agreement. Each Party shall bear its own costs of arbitration. The place of arbitration will be in San Francisco, CA, USA and the language to be used in the arbitral proceedings will be English. Judgment on the Award may be entered in any court having jurisdiction. This clause shall not preclude the Parties from seeking provisional remedies in aid of arbitration from a court of appropriate jurisdiction.

(b) Negotiation Requirements Prior to Arbitration. Prior to initiating arbitration, the Parties shall negotiate any issue as follows:

The Parties shall attempt in good faith to resolve any dispute arising out of or relating to this Agreement promptly by negotiation between individuals who have authority to settle the controversy. Any Party may give the other Party written notice of any dispute not resolved in the normal course of business. Within 15 days after delivery of the notice, the receiving Party shall submit to the other a written response. The notice and response shall include with reasonable particularity (a) a statement of each Party's position and a summary of arguments supporting that position, and (b) the name and title of the individual who will represent that Party and of any other person who will accompany the individual. Within 30 days after delivery of the notice, both Parties shall meet at a mutually acceptable time and place.

Unless otherwise agreed in writing by the negotiating Parties, the above-described negotiation shall end at the close of the first meeting described above ("First Meeting"). Such closure shall not preclude continuing or later negotiations, if desired.

All offers, promises, conduct and statements, whether oral or written, made in the course of the negotiation by any of the Parties, their agents, employees, experts and attorneys are confidential, privileged and inadmissible for any purpose, including impeachment, in arbitration or other proceeding involving the Parties, provided that evidence that is otherwise admissible or discoverable shall not be rendered inadmissible or non-discoverable as a result of its use in the negotiation.

At no time prior to the First Meeting shall either side initiate an arbitration or litigation related to this Agreement except to pursue a provisional remedy that is authorized by law or by JAMS Rules or by agreement of the Parties. However, this limitation is inapplicable to a Party if the other Party refuses to comply with the requirements of Subsection (a) above.

All applicable statutes of limitation and defenses based upon the passage of time shall be tolled while the procedures specified in Subsections (a) and (b) above are pending and for 15 calendar days thereafter. The Parties will take such action, if any, required to effectuate such tolling.

### **12.3 Notices**

Except as otherwise provided in this Agreement, all notices will be in writing using the registration information Customer provided, or the email address associated with the main Provider Account. Service will be deemed given on the date of receipt if delivered by email or on the date sent via courier if delivered by post.

Any notice to Cosign should be sent at this address:

Cosign AI, inc.

447 Sutter Street Ste 405 #621, San Francisco, CA 94108

support@co-sign.ai

### Section 13. Miscellaneous

If any provision of this Agreement is deemed unlawful, void or for any reason unenforceable, then that provision will be deemed severable from this Agreement and will not affect the validity and enforceability of any remaining provisions. Customer may not assign this Agreement or any right, interest or benefit under this Agreement without prior written consent of Cosign. Any attempted assignment in violation of the foregoing will be void. Subject to the foregoing, this Agreement will be fully binding upon, inure to the benefit of and be enforceable by any permitted assignee. This Agreement, together with Customer's selected Plan, is the complete and exclusive statement of the mutual understanding of the Parties and supersedes and cancels all previous written and oral agreements, communications and other understandings relating to the subject matter of this Agreement. No agency, partnership, joint venture, or employment is created as a result of this Agreement and neither Party has any authority of any kind to bind the other in any respect whatsoever. This Agreement does not create any third-party beneficiary rights in any individual or entity that is not a Party to this Agreement. This Agreement in no way establishes any exclusive arrangement between the Parties. Each Party will be free to enter into agreements and other arrangements, including with respect to access to and use of the Platform, with others at any time. Customer may voluntarily consult with Cosign and work in good faith to agree on quotes and statements about Customer's experience with the Platform and Services. If Customer or an Authorized User volunteers such quotes or statements, Cosign may, at its option, use such quotes and statements in connection with its sales and marketing activities. Neither Party will be liable for, or be considered to be in, breach of or default under this Agreement on account of, any delay or failure to perform as required by this Agreement as a result of any cause or condition beyond such Party's reasonable control (including, without limitation, any act or failure to act by the other Party) ("**Force Majeure**"). This force majeure provision will not apply to any payment obligation of either Party. The failure of either Party to insist upon or enforce performance by the other Party of any provision of this Agreement, or to exercise any right or remedy under this Agreement or otherwise by law, will not be construed as a waiver or relinquishment of such Party's right to assert or rely upon the provision, right, or remedy in that or any other instance; rather the provision, right or remedy will be and remain in full force and effect.

# Appendix A

## BUSINESS ASSOCIATE AGREEMENT

This Business Associate Agreement (this “Agreement”) is entered into by and between Customer (“Covered Entity”) and Cosign, Inc. (“Business Associate”) (collectively, “the Parties”) as of the effective date of the Subscription Agreement.

**WHEREAS**, the parties intend to protect the privacy and provide for the security of Protected Health Information disclosed to Business Associate pursuant to the underlying services agreement the parties have entered into the Cosign AI Platform Subscription Agreement (the “Service Agreement”) in compliance with the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 (“HIPAA”), Subtitle D of Title XIII of Division A of the American Recovery and Reinvestment Act of 2009, Public Law 111-5 (“HITECH”) and the regulations promulgated under HIPAA and HITECH, including, without limitation, the Standards for Privacy of Individually Identifiable Health Information, at Title 45, Parts 160 and 164 (the “Privacy Rule”) and the Standards for the Security of Electronic Protected Health Information, at Title 45, Parts 160 and 164 (the “Security Rule”), collectively referred to hereinafter as “HIPAA”;

**WHEREAS**, in the course of providing services to Covered Entity (“Services”) pursuant to the Service Agreement, Business Associate may be required to create, receive, maintain, or transmit Protected Health Information on behalf of Covered Entity; AND

**NOW THEREFORE**, in consideration of the foregoing and the mutual promises contained herein, the parties agree as follows:

**1. Definitions.** Capitalized terms used, but not otherwise defined, in this Agreement shall have the same meanings as those terms in HIPAA, except that the terms “Protected Health Information” and “Electronic Protected Health Information” (which may be collectively referred to herein as “PHI”) shall have the meaning as set forth in HIPAA, limited to the information created, received, maintained, or transmitted by Business Associate from or on behalf of Covered Entity in connection with the Service Agreement. For purposes of this Agreement, PHI does not include information that has

been de-identified in accordance with the standards for de-identification set forth in the Privacy Rule.

**2. Uses and Disclosures of PHI.** Business Associate shall not use or disclose PHI in any manner that is not permitted or required by the Service Agreement, this Agreement, or as Required By Law. The parties agree that the Business Associate may:

- (a) Use and disclose PHI to perform functions, activities, or Services for, or on behalf of, Covered Entity as specified in the Service Agreement. Business Associate shall not use or disclose PHI in any manner that would constitute a violation of HIPAA, or other applicable federal or State law if so used by a Covered Entity, unless such use or disclosure is expressly provided for in this Agreement;
- (b) De-identify PHI in accordance with HIPAA for use by the Business Associate;
- (c) Use and disclose PHI for the proper management and administration of the Business Associate and to meet its legal obligations, provided that the disclosures are Required By Law, or Business Associate obtains reasonable assurances in writing from the person to whom the information is disclosed that it will remain confidential and will be used or further disclosed only as Required By Law or for the purpose for which it was disclosed to the person, and that the person will notify the Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached; and
- (d) Aggregate PHI with the Protected Health Information of another covered entity as permitted under the Privacy Rule.

### **3. Safeguards Against Misuse of Information.**

Business Associate agrees to use appropriate physical, administrative, and technical safeguards that (i) reasonably and appropriately protect the confidentiality, integrity, and availability of Electronic PHI; and (ii) prevent the use, disclosure of, or access to the PHI other than as provided for by this Agreement.

### **4. Privacy Rule Representations and Warranties.**

To the extent that Business Associate is requested by Covered Entity to carry out one or more of a Covered Entity's obligations under the Privacy Rule, Business Associate will comply with the requirements of the Privacy Rule that apply to the Covered Entity.

### **5. Security Policies Representations and Warranties.**

Business Associate represents and warrants to Covered Entity that Business Associate will comply with the Security Rule with respect to Electronic PHI that it creates, receives, maintains, or transmits.

### **6. Reporting Security Incidents or Improper Uses or Disclosures.**

Business Associate shall report to Covered Entity: (i) any Security Incident; and (ii) any use or disclosure of the PHI not provided for by this Agreement or permitted by HIPAA, of which it becomes aware. This Section constitutes notice to Covered Entity of attempted but unsuccessful security incidents for which no additional notice to Covered Entity is required. For purposes of this Agreement, unsuccessful security incidents include activity such as pings and other broadcast attacks on Business Associate's firewall, port scans, unsuccessful log-on attempts, denials of service, and any combination of the above, so long as no such incident results in unauthorized access, use, or disclosure of PHI.

**7. Reporting of Breaches.** Business Associate shall notify Covered Entity in accordance with 45 C.F.R. § 164.410 of any Breach of such Unsecured Protected Health Information.

**8. Mitigation of Harmful Effects.** Business Associate agrees to take commercially reasonable steps to mitigate harmful effects from any Breach of Unsecured PHI or other Security Incident or inconsistent use or disclosure of PHI which Business Associate is required to report pursuant to this Agreement.

**9. Agreements by Third Parties.** Business Associate agrees to ensure that any agent or subcontractor, to whom it provides PHI, agrees in writing: (i) to restrictions and conditions with respect to use and disclosure of such PHI that are at least as restrictive as those that apply through this Agreement to Business Associate; and (ii) to the implementation of reasonable and appropriate privacy and security safeguards to protect PHI.

**10. Documentation of Disclosures.** Business Associate agrees to document disclosures of PHI and information related to such disclosures as would be required for Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. § 164.528.

**11. Accounting of Disclosures.** Within twenty (20) business days of written notice by Covered Entity to Business Associate that it has received a request for an accounting of disclosures of PHI regarding an Individual, Business Associate shall make available to Covered Entity such information as would be required to permit Covered Entity to respond to such request as required by 45 C.F.R. § 164.528. In the event the request for an accounting is delivered directly to Business Associate Business Associate shall within (5) business days forward such request to Covered Entity.

**12. Access to Information.** Within fifteen (15) business days of receipt of a written request from Covered Entity, Business Associate shall furnish to Covered Entity:

- (a) Access to PHI about an Individual contained in a Designated Record Set maintained by Business Associate as would be required to permit Covered Entity to meet the access requirements under 45 C.F.R. § 164.524. Any denials of access to the PHI requested shall be the responsibility of Covered Entity.
- (b) Incorporate any such amendments to such PHI about an Individual contained in a Designated Record Set as required by 45 C.F.R. § 164.526.

**14. Availability of Books and Records.** Business Associate hereby agrees to make its internal practices, books, and records relating to

the use and disclosure of PHI available to the Secretary for purposes of determining compliance with HIPAA. In responding to any such request, Business Associate shall notify Covered Entity and promptly afford Covered Entity the opportunity to exercise any rights it may have under the law relating to documents or information protected from disclosure by obligations of confidentiality.

#### **15. Obligations of Covered Entity**

- (a) **Consent.** Covered Entity agrees to obtain any consent, authorization or permission that may be required by the Privacy Rule or any other applicable federal or state laws and/or regulations prior to furnishing Business Associate PHI pertaining to an Individual; and
- (b) **Restrictions.** Covered entity agrees that it will inform Business Associate of any PHI that is subject to any arrangements permitted or required of Covered Entity under the Privacy Rule that may materially impact in any manner the use and/or disclosure of PHI by Business Associate under the Service Agreement, including, but not limited to, restrictions on the use and/or disclosure of PHI as provided for in 45 C.F.R. § 164.522 and agreed to by Covered Entity.
- (c) **Minimum Necessary.** Covered Entity shall only request, use or disclose the minimum necessary PHI to accomplish its obligations under the Services Agreement or this Agreement.
- (d) **Permissible Requests.** Covered Entity shall not request Business Associate to use or disclose PHI in any manner that would not be permissible under the Privacy Rule if done by a Covered Entity.

**16. Term.** The term of this Agreement shall commence on the effective date of the Service Agreement, and shall terminate upon the earlier to occur of: (i) the termination of the Service Agreement for any reason or (ii) the termination of this Agreement pursuant to the provisions herein.

**17. Termination for Cause.** Either party may terminate this Agreement due to a material breach of this Agreement by the other party

upon giving the other party thirty (30) days prior written notice; provided the breaching party does not cure the breach prior to the effective date of termination. Any dispute regarding any such alleged breach and/or cure shall be resolved in accordance with the dispute resolution provisions of the Service Agreement, if any.

**18. Effect of Termination of Services.** Upon termination of this Agreement for any reason, Business Associate shall return to Covered Entity, or, at Covered Entity's direction, destroy, all PHI received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity. In the event that Business Associate determines that returning or destroying the PHI is infeasible, Business Associate shall extend the protections of this Agreement to such PHI and limit further use of the PHI to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains such PHI. If Business Associate elects to destroy the PHI, Business Associate shall certify in writing to the Covered Entity that such PHI has been destroyed. The provisions of this Section 18 shall survive the termination of the Service Agreement and this Agreement, and shall apply to PHI that is in the possession of subcontractors or agents of Business Associate.

**19. Interpretation.** This Agreement and the Service Agreement shall be interpreted as broadly as necessary to implement and comply with HIPAA. The parties agree that any ambiguity in this Agreement shall be resolved in favor of a meaning that complies and is consistent with HIPAA.

**20. Third Party Rights.** The terms of this Agreement are not intended, nor should they be construed, to grant any rights to any parties other than Business Associate.

**21. Notices.** Any notices to be given hereunder shall be in accordance with the notification procedures identified in the Service Agreement except that notices for HIPAA Privacy, Security and other BAA related issues shall be addressed to the person and address set forth below (or to such other person or address as either party may so designate from time to time).

**22. Regulatory References.** A reference in this Agreement to a section of HIPAA means the

section as in effect or as amended, and for which compliance is required.

**23. Governing Law and Dispute Resolution.**

The provisions concerning governing law and dispute resolutions provided in the Service Agreement (Section 12 of the Service Agreement) are hereby incorporated into this Agreement.

**24. No Waiver.** No change, waiver, or discharge of any liability or obligation hereunder on any one or more occasions shall be deemed a waiver of performance of any continuing or other obligation, or shall prohibit enforcement of any obligation, on any other occasion.

**25. Severability.** In the event that any provision of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, the remainder of the provisions of this Agreement will remain in full force and effect.

**26. Independent Contractor.** None of the provisions of this Agreement are intended to create, nor will they be deemed to create, any relationship between the parties other than that of independent parties contracting with each other solely for the purposes of effecting the provisions of this Agreement and any other agreements between the parties evidencing their business relationship.