

## Terms of Service

### 1. General

1.1 These Terms of Service (hereinafter, the “**Terms**”) shall apply to and form an integral part of: (a) all offers to **Customer** (i.e. person or company addressed in an offer) issued by EPILOG NV, registered with the Crossroads Bank of Enterprises under number 0664.618.462 and having its registered office at Vlasgaardstraat 52, 9000 Gent (Belgium), or by any of its affiliates (hereinafter, “**EPILOG**”); (b) all orders placed by Customer with EPILOG; and (c) all order confirmations issued by EPILOG. The Terms shall apply to all the aforementioned offers, orders and confirmations in as much as they are relating to the rendering of **Services** (i.e. consultancy services, as described in the corresponding offer or order confirmation) by EPILOG to Customer.

1.2 The present Terms shall replace any other terms and conditions stated orally by Customer or set forth in any document issued by Customer either before or after issuance of any document by EPILOG setting forth or referring to these Terms. Such any other terms and conditions are hereby explicitly rejected and they shall be wholly inapplicable to any performance of Services by EPILOG, who shall not be bound by them, unless and to the extent expressly agreed to in writing by EPILOG.

1.3 An order is only accepted by EPILOG, and it shall only be binding, upon written confirmation by EPILOG. Likewise, acceptance of any offer by Customer is expressly conditional on Customer’s acceptance of all of these Terms. Acceptance by Customer of an offer may be evidenced by Customer’s, or its representative’s, written or verbal assent or Customer’s or its representative’s acceptance of the Services or payment of the (first instalment of the) price for the rendering of the Services.

1.4 EPILOG’s offers are open for acceptance within the period stated by EPILOG in said Offer or, when no period is stated, within thirty (30) calendar days from the date of the offer. However, any offer may be withdrawn or revoked by EPILOG at any time prior to the receipt by EPILOG of Customer’s acceptance related thereto.

1.5 Changes to the offer or to the order, including but not limited to the scope of the Services, whether prior or during the performance of the Services, require prior written approval from EPILOG.

1.6 Any offer is an engagement of EPILOG to perform the Services and not an engagement to achieve any particular result. Likewise, any **Delivery Date** (i.e. date of conclusion of the performance of the Service) is a mere estimation, and is not binding on EPILOG (who shall not be liable for, nor shall be in breach of its obligations towards Customer, any conclusion of performance of the Services made within a reasonable time before or after the Delivery Date). Nonetheless, EPILOG shall use its best efforts to meet any such Delivery Date, on the condition that Customer meets

all its obligations under the present Terms and corresponding offer and confirmation, and that Customer provides all necessary orders and information sufficiently prior to the requested Delivery Date. If EPILOG fails to use its best efforts and as a result thereof EPILOG fails to meet the Delivery Date, Customer shall give EPILOG written notice thereof and a reasonable period of time, with a minimum of thirty (30) calendar days, within which EPILOG shall use its best efforts to meet the new Delivery Date. If in spite of EPILOG using its best efforts, the new Delivery Date is not met, Customer may nevertheless terminate the rendering of the Services, but shall pay for any pending invoices, for the actual best efforts used and for the Services already rendered (regardless whether or not the corresponding invoice has been issued). In any event, EPILOG shall not be bound by any further obligation nor be liable for any damage in this regard.

### 2. Prices, invoicing, payment and suspension for non-payment

2.1 All prices in any offer are exclusive of all applicable taxes, levies or duties, and Customer will be solely responsible for the payment of all such amounts. EPILOG will add taxes to the price, where it is required to do so by law, at the moment of invoicing for the Services rendered, and Customer will pay them together with the price. All prices are payable in Euro (EUR).

2.2 EPILOG will invoice Customer for the rendering of the Services, as specified in the offer, as well as for materials and related expenses (such as, but not limited to, costs of traveling or necessary licenses to execute the Services. All invoices are due and payable at a due date of thirty (30) calendar days of the invoice date.

2.3 If Customer does not pay the price due within the stipulated term, Customer will be automatically, without EPILOG’s notification being required, in default. In addition, all amounts not paid by Customer on the due date mentioned in the invoice shall bear the interest in accordance with the law of 8 August 2002 on combating late payments in commercial transactions. Furthermore, Customer agrees to pay any costs, fees and expenses incurred by EPILOG in connection with the collection of the debt together with the applicable interest.

2.4 If Customer has not timely paid the price of an invoice by the due date, EPILOG might automatically suspend the performance of the Services. In particular, Customer acknowledges and agrees that EPILOG is not obliged to continue rendering the Services as long as the related invoice is not paid. The duration of such suspension will continue until Customer has paid all due amounts.

### 3. License by EPILOG – restrictions – Intellectual Property Rights – confidentiality

3.1 Subject to Customer’s fulfilment of all of its obligations under the present Terms and corresponding offer and/or confirmation (in particular, but without an exhaustive

character, full payment of the price of the Services), Customer shall have a non-exclusive, personal, world-wide, non-transferable, non-sublicensable license to use the **Results** (i.e. any report, analysis, recompilation, study, summary, extract or document of any kind elaborated by EPILOG as a result of the rendering of the Services) for the purpose as agreed between EPILOG and the Customer. Nonetheless, and without prejudice to what is established in Article 2.4 above, if Customer fails to make any payments to EPILOG when due, Customer shall, upon EPILOG's request, return to EPILOG or destroy (and certify the same), at Customer's expense, any such Results (including any copy that has been made of them by Customer, regardless the format).

3.2 Customer shall only use the Results or any part thereof for the purposes established in the offer and/or confirmation, and not for any other purposes. In particular, but without an exhaustive character, Customer agrees not to use the Results for any purpose that may be detrimental to EPILOG's business activities or commercial interests.

3.3 Any and all **Intellectual Property Rights** (i.e. any and all (a) rights associated with works of authorship, including copyrights, mask work rights, and moral rights; (b) trademark or service mark rights; (c) trade secret rights, know-how; (d) patents, patent rights, and industrial property rights; (e) layout design rights, design rights, (f) trade and business names, domain names, database rights, rental rights and any other industrial or intellectual proprietary rights or similar right (whether registered or unregistered); (g) all registrations, applications for registration, renewals, extensions, continuations, divisions, improvements or reissues relating to any of these rights and the right to apply for, maintain and enforce any of the preceding items, in each case in any jurisdiction throughout the world) in the Results are the sole property of EPILOG. Except as expressly set forth herein, no express or implied license or right of any kind is granted to Customer regarding the Results or any part thereof.

3.4 EPILOG agrees that it shall not disclose to any third party any information disclosed by Customer for the purposes of rendering the Services that may concern the business, affairs, clients or patients of Customer, or that may consist in private medical information concerning a particular individual (hereinafter, the "**Confidential Information**"). Notwithstanding the foregoing, EPILOG may disclose the Confidential Information: (a) to its employees, officers, representatives or advisers who need to know such information within the framework of their function or employment in EPILOG (EPILOG shall enjoin secrecy on said employees, officers, representatives or advisers, unless they are already contractually bound to keep all information which they receive within their function or employment confidential); (b) as it may be required by law, a court or competent jurisdiction or any governmental or regulatory authority; (c) where it was already in the public domain or known by EPILOG (as shown by its written

records) before its disclosure by Customer; or (d) where it has been independently developed by EPILOG (as shown by its written records) before its disclosure by Customer.

#### 4. Data protection and data retention and deletion

4.1 Any personal data that is provided by Customer or collected by EPILOG for the purposes of rendering the Services will be processed in accordance with the EU General Data Protection Regulation of 27 April 2016. EPILOG undertakes to use said personal data solely with a view to fulfilling its obligations towards Customer in the context of the Services. Customer is entitled to request EPILOG free of charge to correct any inaccuracies in its personal data if such personal data would be incomplete or inaccurate by sending an e-mail to [info@epilog.care](mailto:info@epilog.care).

4.2 If, and to the extent, EPILOG processes any personal data of third parties on the Customer's behalf when rendering the Services, EPILOG and Customer record their intention that, relating to the processing of the personal data of these third parties, Customer shall be the data controller and EPILOG shall be a mere data processor and in any such case:

- a. Customer acknowledges and agrees that the personal data may be transferred or stored in any country of the European Union;
- b. Customer shall ensure that it is entitled to transfer the relevant personal data to EPILOG, so that EPILOG may lawfully use, process, store and transfer the personal data for the purposes of rendering the Services;
- c. Customer shall ensure either (i) that the relevant third parties or patients whose personal data are processed have authorized such use, processing, storage and transfer as compliant with applicable data protection legislation and industry standards or (ii) personal data are delivered 'de-identified', meaning that the personal identifiers of Customer's patients have been extracted from all personal data provided to EPILOG;
- d. EPILOG shall process the personal data in accordance with these Terms and any lawful instructions reasonably given by Customer from time to time;
- e. Customer acknowledges and agrees that the personal data shall be shared with EPILOG's employees, representatives, officers, directors, agents, advisors, affiliates subcontractors and consultants who have a need to know such data for the purposes of rendering the Services;
- f. Both, EPILOG and Customer shall take appropriate technical and organizational measures against unauthorized or unlawful processing of the personal data or its accidental loss, destruction or damage.

4.3 EPILOG may retain and store personal data of Customer and personal data of third parties provided by Customer,

for as long as reasonably needed to render the Services to Customer. However, upon expiration of the aforesaid period EPILOG will be entitled to keep storing and using said personal data for statistical, internal product and service development, research and scientific purposes, provided that these data are anonymized. Customer ensures that the consent meant in Article 5.2 c of these Terms includes the consent for the processing of personal data for statistical, internal product and service development, research and scientific purposes.

## 5. Warranties and disclaimers

5.1 By EPILOG. Except as expressly provided in these Terms and to the maximum extent permitted by applicable law, the Services and the corresponding Results are provided “as is,” and EPILOG makes no (and hereby disclaims all) other warranties, covenants or representations, or conditions, whether written, oral, express or implied including, without limitation, any implied warranties of satisfactory quality, course of dealing, trade usage or practice, merchantability, suitability, availability, title, non-infringement, or fitness for a particular use or purpose, with respect to the use, misuse, or inability to use the Services and/or the Results, as the case may be, provided to Customer by EPILOG. EPILOG does not warrant that the Results are secure, or error-free, true, complete or accurate. Customer specifically acknowledges and agrees that EPILOG cannot be held liable for any healthcare or related decisions made by Customer or any third party based upon the Services rendered or the corresponding Results provided in connection with the former. Moreover, where EPILOG’s platform available at <https://preop.epilog.care> has been used within the context of rendering of the Services, Customer acknowledges and agrees that there are risks inherent to transmitting information over and storing information on the internet and that EPILOG is not responsible and cannot be held liable for any losses of Customer’s data.

5.2 By Customer. Customer represents and warrants to EPILOG that it has the authority to contract the Services (i.e. accepting offers and placing orders) and to accept these Terms, and that any information, confidential or not, as well as personal data, provided to EPILOG by Customer for the purposes of rendering the Services is accurate and truthful, that Customer will not transmit, access or communicate any data that Customer does not have the right to transmit, access, or communicate under applicable law and that it shall not: (a) infringe any Intellectual Property Rights of third parties; (b) misappropriate any trade secret; (c) be deceptive, defamatory, obscene, pornographic or unlawful; (d) contain any viruses, worms or other malicious computer programming codes intended to damage or actually damage EPILOG’s system or data; or (e) otherwise violate the rights of a third party. Customer acknowledges and agrees that EPILOG is not obligated to back up any such Customer’s information.

## 6. Indemnification

6.1 By EPILOG. EPILOG shall defend and indemnify Customer as specified herein against any founded and well-substantiated claims brought by third parties to the extent such claim is based on an infringement of the Intellectual Property Rights of such third party by the Results and excluding any claims resulting from: (a) the unauthorized use of the Results by Customer (including, but without an exhaustive character, employees, helpers or agents) or by third parties with the consent of Customer; (b) the modification of the Results by Customer (including, but without an exhaustive character, employees, helpers or agents) or by third parties with the consent of Customer; (c) the use of the Results in violation of any of the present Terms by Customer (including, but without an exhaustive character, employees, helpers or agents) or by third parties with the consent of Customer; or (d) the request of Services the infringing nature of which was already known by Customer at the moment of placing the corresponding order.

6.2 Such indemnity obligation shall be conditional upon the following: (a) EPILOG is given prompt written notice by Customer of any such claim; (b) EPILOG is granted sole control of the defense and settlement of such a claim; (c) upon EPILOG’s request, Customer fully cooperates with EPILOG in the defense and settlement of such a claim; and (d) Customer makes no admission as to EPILOG’s liability in respect of such a claim, nor does Customer agree to any settlement in respect of such a claim without EPILOG’s prior written consent. Provided these conditions are met, EPILOG shall indemnify Customer for all damages and costs incurred by the Customer as a result of such a claim, as awarded by a competent court of final instance, or as agreed to by EPILOG pursuant to a settlement agreement.

The foregoing states the entire liability and obligation of EPILOG and the sole remedy of Customer with respect to any infringement or alleged infringement of any Intellectual Property Rights or of any other kind of right of a third party caused by the Results or any part thereof.

6.3 By Customer. Customer hereby agrees to indemnify and hold harmless EPILOG and its current and future affiliates, officers, directors, employees, agents, consultants and representatives from each and every demand, claim, loss, liability, or damage of any kind whatsoever, including reasonable attorney’s fees, whether in tort or in contract, that it or any of them may incur by reason of, or arising out of, any claim which is made by any third party with respect to: (a) any breach or violation by Customer or by any of Customer’s employees, helpers or agents of any provisions of these Terms; (b) any information provided by Customer to EPILOG for the purposes of rendering the Services that violates any Intellectual Property Rights or any other kind of right of a third party; and (c) fraud, intentional misconduct, or gross negligence committed by Customer.

## 7. Liability

7.1 To the maximum extent permitted under applicable law, EPILOG’s liability arising out of or in connection with the Services and the Results under these Terms whether in

contract, warranty, tort or otherwise, shall be subject to the restrictions set forth in these Terms, including but not limited to Articles 5 and 6 of these Terms, and it shall not exceed the amount paid by Customers to EPILOG in connection with the Services.

7.2 To the extent legally permitted under applicable law, EPILOG shall not be liable to Customer or any third party, for any special, indirect, exemplary, punitive, incidental or consequential damages of any nature including, but not limited to damages or costs due to loss of profits, data, revenue or income, goodwill, production of use, procurement of substitute services, negative evolution of human health, protracted illness, fatal injuries, death or property damage arising out of or in connection with the Services or the Results, including but not limited to any miscalculations, or the use, misuse, or inability to use the Results, regardless of the cause of action or the theory of liability, whether in tort, contract, or otherwise.

7.3 . For the avoidance of doubt, EPILOG shall not be liable for any claims resulting from: (a) Customer's or Customer's employees', helpers' or agents' unauthorized use of the Results; (b) Customer's or any third party's modification of (any parts) of the Results; (c) Customer's use of the Results in combination with any non-EPILOG's products or services; (d) Customer's or Customer's employees', helpers' or agents' use of the Results in violation of any of the Articles of these Terms; (e) Customer's use and interpretation of the Results and any medical advice based thereon.

7.4 The exclusions and limitations of liability under these Terms shall operate to the benefit of EPILOG's affiliates and subcontractors to the same extent such provisions operate to the benefit of EPILOG; and all exclusions and limitations of liability enforceable towards Customer are also, to the same extent, enforceable to the Customer's employees, patients, helpers and/or agents.

## 8. Termination and suspension

8.1 **Termination for breach.** EPILOG may terminate with immediate effect the rendering of the Services, without any compensation being due to Customer: (a) if EPILOG believes or has reasonable grounds to suspect that Customer is violating these Terms (including, but not limited to, any violation of the Intellectual Property Rights of EPILOG); or (b) if Customer fails to pay any amount when due pursuant to Article 2 of the present Terms. Without prejudice to the foregoing, and at EPILOG's sole discretion, EPILOG may decide, in the event of breach, to suspend the rendering of the Services instead. The suspension by EPILOG will last until Customer has cured the breach that caused such suspension, except as otherwise provided (see Article 2.4 of the Terms).

8.2 **Effects of termination.** Upon the termination of the rendering of the Services for any reason whatsoever in accordance with the provisions of these Terms, EPILOG may delete any Result and any information provided by Customer for the rendering of the Services. However, termination shall not exempt Customer from paying any

pending invoices nor from paying Services already rendered (regardless whether or not the corresponding invoice has already been issued). Likewise, rights and obligations under sections 3, 4, 5, 6 and 7 shall survive any such termination.

## 9. Miscellaneous

9.1 **Force Majeure.** EPILOG shall not be liable for any failure or delay in the rendering of the Services if such delay or failure is due to causes beyond EPILOG's control, including, but not limited to, war, strikes or labor disputes, embargoes, government orders, telecommunications, network, computer, server or Internet downtime, unauthorized access to EPILOG's information technology systems by third parties or any other cause beyond the reasonable control of EPILOG (hereinafter, the "**Force Majeure Event**"). EPILOG shall notify Customer, for mere informative purposes and without assuming any liability or obligations in respect of it, of the nature of such Force Majeure Event and the effect on its ability to render the Services, as well as of EPILOG's plan to mitigate the effects of such Force Majeure Event.

9.2 **Entire agreement.** These Terms constitute the entire agreement and understanding between Customer and EPILOG with respect to the rendering of Services in respect of the corresponding offer, and supersedes all prior oral or written agreements, representations or understandings between Customer and EPILOG relating to the same subject. No statement, representation, warranty, covenant or agreement of any kind not expressly set forth in these Terms shall affect, or be used to interpret, change or restrict, their express terms and provisions.

9.3 **Severability.** If any provision of these Terms is, for any reason, held to be invalid or unenforceable, the other provisions of these Terms will remain enforceable and the invalid or unenforceable provision will be deemed modified so that it is valid and enforceable to the maximum extent permitted by law.

9.4 **Waiver.** Any failure to enforce any provision of the Terms shall not constitute a waiver thereof or of any other provision.

9.5 **Assignment.** Customer's obligations and rights under the present Terms may not be assigned by Customer without the prior written approval of EPILOG, but EPILOG may assign its obligations and rights to (a) a parent company or subsidiary, (b) an acquirer of all or substantially all of EPILOG's assets involved in the operations relevant to these Terms, or (c) a successor by merger or other combination. Any purported assignment in violation of this Article will be void. These Terms may be enforced by and is binding on permitted successors and assigns.

9.6 **Notices.** All notices from EPILOG intended for receipt by Customer shall be deemed delivered and effective when sent to the email address provided by Customer, without prejudice to any other additional mean of communication used for giving such notice. If Customer changes its email

address, Customer must inform EPILOG of that circumstance in written.

**9.7 Governing law and jurisdiction.** These Terms shall be exclusively governed by and construed in accordance with the laws of Belgium, without giving effect to any of its conflict of law principles or rules. The Courts and Tribunals of Ghent shall have sole jurisdiction should any dispute arise in relating to the Terms and/or the rendering of the Services.