

## Vetstreet TERMS AND CONDITIONS Version 800.5.1

The terms and conditions set forth herein, as the same may be amended, supplemented and modified from time to time (these "Terms and Conditions") are entered into by and between Customer (as defined below) and Vetstreet, LLC ("Vetstreet").

**1. PURCHASE AND SCOPE OF SERVICES.** As an authorized agent of the veterinary practice or other business (the "Customer"), you agree to purchase from Vetstreet the services set forth on the applicable order form (the "Services") and license the Software (as defined below) from Vetstreet subject at all times to these Terms and Conditions. Customer must comply with the technical requirements specified by Vetstreet (the "Technical Requirements") before receiving the Services. If requested, Vetstreet may assist with Customer's compliance with the Technical Requirements for an additional charge. Customer may purchase additional services at any time, subject to Vetstreet's then-current policies, procedures and prices. Use of such additional services shall also be subject to these Terms and Conditions.

### 2. LICENSES, IMPLEMENTATION AND PROPRIETARY RIGHT

**2.1 Licenses.** Subject to these Terms and Conditions, Vetstreet shall provide the Services to Customer and Vetstreet grants Customer a non-transferable, non-exclusive license to use Vetstreet's proprietary software provided in connection with providing any Services ("Software"). Customer agrees that Vetstreet shall provide initial set-up and ongoing services to extract, convert, and post information ("Content") as reasonably needed to enable Vetstreet to provide the Services, including without limitation, to send communications to Customer's clients ("Clients") as authorized by Customer; and all such Content will be sent and/or posted in Customer's name unless previously authorized by Customer.

Subject to these Terms and Conditions, Customer grants Vetstreet a royalty-free, worldwide, non-exclusive license to access, edit, modify, adapt, translate, exhibit, publish, transmit, participate in the transfer of, reproduce, create derivative works from, distribute, perform, display, and otherwise use Content, including through Customer's practice management software, and to generate new information through the Services, solely for access and use by Customer and the affected Clients, and otherwise for the benefit of Customer and Client pursuant to this Agreement.

**2.2 Implementation.** Vetstreet will respond to Customer e-mails and phone calls regarding operation and use of the Software during regular business hours (9:00 a.m. to 5:00 p.m. Eastern Standard Time) on weekdays (excluding holidays). Vetstreet will attempt to correct all documented problems with the Services reported to Vetstreet by Customer, and will make all bug fixes available to Customer.

**2.3. Proprietary Rights.** Vetstreet (including its agents and licensors) retains all right and title to (a) the Software and any related materials and documentation and (b) all know-how, methodologies, algorithms, processes and intellectual property rights (including trademarks, patents, trade secrets and copyrights) therein or related thereto. Customer shall not reverse engineer, decompile, disassemble, derive source code, sell, lease, license or sublicense, write or develop any derivative software, using the Software, whether directly or indirectly.

### 3. CUSTOMER REPRESENTATIONS, WARRANTIES AND OBLIGATIONS.

**3.1 Representations/Warranties.** Customer represents and warrants that: (a) it is the owner of the practice or is authorized to make business decisions on behalf of the practice, including enrolling the practice in the Services; (b) it has the right, under all applicable laws, to grant the rights, permissions and approvals set forth in these Terms and Conditions with respect to identifiable and non-identifiable data and Individual Information (as defined in Section 4.1), and that any limits or cap on Customer's liability under these Terms and Conditions shall not apply to third party claims arising from Customer's misrepresentation under, or breach of, Section 3 or Section 4 of these Terms and Conditions; (c) it

has met the Technical Requirements necessary to use the Software and that it shall notify Vetstreet before making changes to its equipment or services, whether or not included in the Technical Requirements, that may affect Vetstreet's ability to perform the Service(s); (d) it has provided sufficient notice to its Clients, and obtained any necessary consents regarding the transfer, access, collection, use, and disclosure of data and information, as well as direct mail and e-mail communications, including Individual Information, as required by Section 4, and (e) Vetstreet's use of the data and Individual Information in accordance with these terms does not and will not conflict with any privacy policies of Customer.

**3.2. Obligations.** Customer shall (a) cooperate with Vetstreet and provide reasonable assistance (including but not limited to providing access and information regarding Customer's computer system, and practice management software to ensure the Technical Requirements are met) to allow Vetstreet to fulfill its obligations hereunder; (b) accurately code Customer's computer system, database and practice management software in a manner accessible to Vetstreet to identify Clients who have elected not to receive communications from Vetstreet or the Services; (c) honor opt-out requests received by Vetstreet from Customer's Clients and patients, provided that such opt-out requests are reported by Vetstreet to Customer; and (d) provide accurate information for Vetstreet to include in communications (including any text, direct mail and email communications) that are sent to Customer's Clients. Customer shall obtain any and all required consents from Clients to ensure that Vetstreet can collect, use and/or disclose the data and Individual Information for the Services (including where applicable and necessary for the transfer and processing of Individual Information outside of the country, sending any Content, reminders or other communications to Customer's Clients). In addition, Customer shall ensure compliance with all applicable privacy and direct marketing legislation, including without limitation the US CAN-SPAM Act, and Canada's Anti-Spam Legislation, and including without limitation, obtaining from its Clients' consent for Vetstreet to send emails to such Clients on the Customer's behalf. Customer shall immediately notify Vetstreet if it has knowledge of any violation of anti-spam or privacy obligations whether pending or threatened. If Vetstreet is dependent on the performance by Customer of any obligation in order for Vetstreet to comply with any applicable legislation, then, at Vetstreet's request, Customer will perform such obligation in a manner that will enable Vetstreet to comply with the legislation.

### 4. PRIVACY, DATA AUTHORIZATIONS AND CONFIDENTIALITY.

**4.1. Privacy.** Vetstreet and its employees and contractors may access electronic records regarding Customer, Clients, and their pets ("Individual Information"). All Individual Information will be encrypted or otherwise protected when transferred to Vetstreet. Vetstreet shall use Individual Information for the purpose of providing the Services, supporting the Software, complying with applicable laws and for the purposes set forth in this Section 4. Vetstreet shall implement appropriate safeguards and data security protocols to prevent the unauthorized access, modification or disclosure of Individual Information. The privacy provisions of this Section 4.1 are subject to, and Customer shall comply with Vetstreet's Privacy Policy available at [www.vetstreetpro.com](http://www.vetstreetpro.com) (the "Website"). This policy may be revised, modified, updated, supplemented and re-posted from time to time without prior notice at the discretion of Vetstreet. The policy posted on the Website shall govern over any conflicts between it and Section 4.1. Customer is advised to review the posted privacy policy regularly and to direct any questions about it to the address set forth therein.

**4.2. Data.** Customer agrees that Vetstreet may analyze and/ or aggregate, with data from other customers and other sources, data from Customer's database maintained in connection with the Software, and Vetstreet may disclose aggregated de-identified data (i.e., stripped of information that identifies Clients or their pets) to third parties. Customer agrees that Vetstreet may only disclose such de-identified and aggregated data and information in a manner that is identifiable to Customer's practice only with the prior consent of the Customer.

Customer agrees that Vetstreet is permitted to remotely access, obtain and use the data maintained on the Software and any database maintained in connection with the Software, including Individual Information. Customer understands that this data may be exchanged among Vetstreet, its subsidiaries, affiliates and service providers as needed for implementing and performing the Services as well as for its business purposes, including, without limitation, account administration, customer service, transaction processing, consumer reporting, processing and delivering of account statements, research and analysis, product enhancement and development, analytics, marketing and delivery of products and services.

Customer represents and warrants that it has the right, under all applicable laws, to grant the rights, permissions and approvals set forth in these Terms and Conditions with respect to identifiable and non-identifiable data, and the sending of communications, and that any limits or cap on Customer's liability under these Terms and Conditions shall not apply to third party claims arising from Customer's misrepresentation under, or breach of, this sentence. Customer is solely responsible for obtaining and maintaining or verifying that it or its organization has obtained and is maintaining all Client consents and other legally necessary consents and permissions required or advisable for Vetstreet to send communications to clients on Customer's behalf and to perform the Service(s) hereunder.

**4.3. Confidentiality.** "Confidential Information" means these Terms and Conditions, the Individual Information, and all other business, financial, marketing, and technical information, that is reasonably identified as confidential at the time of disclosure or within seven (7) days thereafter, or that a reasonable person would consider confidential. Vetstreet shall not use or disclose Customer's Confidential Information except in connection with the use or operation of the Services or as otherwise described hereunder. Customer shall not use or disclose Vetstreet's Confidential Information without the consent of Vetstreet. Confidential Information is not information that: (a) is or becomes public other than through a breach hereunder; (b) is known to receiving party prior to the date of the date of the order form and which the receiving party has received without the breach by any person of any obligation of confidentiality; (c) is disclosed, without obligation of confidentiality, to the receiving party by a person or entity not party to these Terms and Conditions and who is entitled to disclose such information without breaching an obligation of confidentiality; or (d) is required to be disclosed by any judicial or legal process, including the rules of any national stock exchange. Upon request, the party receiving Confidential Information shall destroy or return to the disclosing party all of disclosing party's Confidential Information. The terms of this Section 5 shall survive termination or expiration for five (5) years; provided that Vetstreet shall retain Individual Information for as long as necessary to perform the Services and comply with its legal obligations, after which it will be destroyed.

**5. PAYMENT.** Customer shall pay any initial fees upon its execution of the Order Form, and shall pay all fees and amounts due, in accordance with the Order Form, within thirty (30) days of invoice date. If Customer has elected automatic credit card payment, Customer's credit card account will be charged in advance for fees as set forth on the Order Form. Vetstreet may modify all prices and fees with each renewal contract year upon at least sixty (60) days prior notice to Customer. Vetstreet may pass through postal rate increases without prior notice. Invoices will be pro-rated for the applicable billing cycle in which Services commence, but not for any billing cycle in which Services are terminated or canceled. Late Payments are subject to a monthly service charge of 1.5% and a \$30.00 administrative fee. Vetstreet may suspend Services if any invoice is not paid within thirty (30) days. Customer is responsible for all applicable taxes in connection with this Agreement other than taxes based upon Vetstreet's income.

## **6. WARRANTIES**

**6.1. Technical Requirements.** Customer warrants that it has met the Technical Requirements or shall obtain the necessary

equipment and services to meet the Technical Requirements, at Customer's sole expense, within sixty (60) days of the date of the applicable order form. Customer agrees that Vetstreet may reasonably modify the Technical Requirements and Customer shall obtain, at its sole expense, any technology necessary to comply with the Technical Requirements. Customer shall notify Vetstreet before making changes to its equipment or services, whether or not included in the Technical Requirements, that may affect Vetstreet's ability to provide, and Customer's ability to receive the Services. Customer warrants that it shall not post, shall not allow to be posted, and shall be solely responsible for the posting of: (a) any materials that infringe on any intellectual property rights of another; and (b) any libelous or defamatory material or material that is otherwise contrary to applicable law.

**6.2 Fulfillment and Pharmacy Services.** For Online Store Services, Customer acknowledges that all orders placed by Customer or its patient owner clients will be fulfilled by an independent fulfillment services provider and its pharmacy provider, both of which are regulated and licensed by federal and state agencies. The fulfillment services provider and Vetstreet are independent third parties and Vetstreet disclaims all liability for Services performed by the independent fulfillment services provider.

**6.3. Vetstreet Warranties and Disclaimers.** Vetstreet warrants that it shall perform the Services in a competent and timely manner. Vetstreet does not guarantee the sequence, accuracy, or completeness of any medical information that it furnishes via the Services and/or the Software and shall not be liable in any way to Customer, its customers or anyone else to whom the information or content may be furnished, for any delays, inaccuracies, unavailability, errors or omissions. Vetstreet expressly states, and Customer hereby acknowledges and agrees, that the information available via the Software and/or the Services are in no case to be used as a substitute for professional medical advice nor is it intended to be relied upon by any person or entity for purposes of medical diagnosis or treatment. Vetstreet shall have no liability for any claim based upon the use of the Services or the Software or the combination of the information available via the Services or the Software with other information or content. VETSTREET DOES NOT WARRANT UNINTERRUPTED OPERATION OF THE SOFTWARE AND SPECIFICALLY DISCLAIMS FOR ITSELF AND ITS AGENTS ALL OTHER WARRANTIES, EXPRESSED AND IMPLIED, INCLUDING BUT NOT LIMITED TO THE WARRANTIES OF TITLE, MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. THIS DISCLAIMER OF WARRANTY CONSTITUTES AN ESSENTIAL PART OF THESE TERMS AND CONDITIONS.

**7. TERM AND TERMINATION.** The initial term hereof shall begin on the date of the order form and shall expire one (1) year from the last day of the month of the date of the order form. These Terms and Conditions automatically shall renew for additional one-year terms, unless written notice is given of a party's intent to terminate these Terms and Conditions at least sixty (60) days prior to the end of the then current term. Either party may terminate these Terms and Conditions (i) upon thirty (30) days written notice to the other party or (ii) upon thirty (30) days written notice to the other party if the other party breaches these Terms and Conditions and such breach is not cured within thirty (30) days of such notice. Section 2.3, 3, 4, 5, 7 and 8 shall survive the expiration or termination of these Terms and Conditions.

Without prejudice to any other rights, Vetstreet may terminate these Terms and Conditions if Customer fails to fulfill any obligation under these Terms and Conditions. In addition, Vetstreet reserves the right to terminate these Terms and Conditions, at its sole discretion, if for any reason it is of the view that the use being made of the Services or Software is inappropriate, improper, misleading or fraudulent.

## **8. LIMITATION OF LIABILITY, DAMAGES AND REMEDIES.**

**8.1. Vetstreet.** Vetstreet's liability, and the liability of its affiliates, independent marketing and sales representatives, licensors, suppliers, and the officers, directors, employees, agents, successors and assigns for all such entities for all claims, suits, and

disputes arising from these Terms and Conditions shall be limited to the amount of fees paid by Customer to Vetstreet hereunder during the twelve (12) months prior to the date such claim, suit or dispute allegedly arose. Customer shall promptly notify Vetstreet of any claim of which Customer is aware and Vetstreet shall have the right to control the defense in any action and to enter into a stipulation of discontinuance and monetary settlement of any claim.

VETSTREET, ITS AFFILIATES, INDEPENDENT MARKETING AND SALES REPRESENTATIVES, LICENSORS, SUPPLIERS AND THE OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, SUCCESSORS AND ASSIGNS FOR ALL SUCH ENTITIES SHALL NOT, SUBJECT ALWAYS TO ANY APPLICABLE LAW WHICH CANNOT BY LAW BE EXCLUDED, BE LIABLE FOR ANY LOSS OF DATA, LOSS OF PROFITS, COST OF COVER OR OTHER SPECIAL, PUNITIVE, INCIDENTAL, CONSEQUENTIAL OR INDIRECT DAMAGES ARISING FROM OR IN RELATION TO THESE TERMS AND CONDITIONS OR SERVICES, HOWEVER CAUSED AND SHALL APPLY TO ALL CAUSES OF ACTION IN THE AGGREGATE, INCLUDING, WITHOUT LIMITATION, BREACH OF CONTRACT, BREACH OF WARRANTY, NEGLIGENCE, STRICT LIABILITY, MISREPRESENTATION AND OTHER TORTS. THIS LIMITATION SHALL APPLY EVEN IF VETSTREET OR ITS AFFILIATES, INDEPENDENT MARKETING AND SALES REPRESENTATIVES, LICENSORS, SUPPLIERS AND THE OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, SUCCESSORS AND ASSIGNS HAVE BEEN ADVISED OR ARE AWARE OF SUCH DAMAGES.

**8.2. Customer.** Customer acknowledges that Vetstreet is not a veterinarian and does not provide medical advice. Customer shall be solely responsible for the accuracy of any veterinary medical advice provided to Clients through the Software. Customer holds harmless and shall defend and indemnify Vetstreet, its affiliates, independent marketing and sales representatives, licensors, suppliers and the officers, directors, employees, agents, successors and assigns of all such entities, from and against any claim or liability arising from (i) Vetstreet's collection, use, or disclosure of the Individual Information or other data received from Customer or its Clients, except as a result of a material breach of these Terms and Conditions by Vetstreet, and (ii) the negligence or willful misconduct of Customer, its employees or agents, including but not limited to, any and all claims arising from the posting of information to or through the Software by Customer, its employees, independent contractors, or agents. Vetstreet cannot and does not assume any responsibility for Customer's or Clients' use or misuse of information or other information transmitted, uploaded, or stored using the Software, servers or Services and shall not be held liable for any damages resulting from Customer's or Clients' use or misuse of information or Services.

Furthermore, Customer agrees to indemnify Vetstreet from any claim, action, or cause, tort or otherwise, that may be brought against Customer or Vetstreet in the event that information is compromised due to Customer's negligence or misconduct, including failure to secure IDs and passwords. Customer also agrees to indemnify Vetstreet for damages resulting from Customer's failure to use or control authorization of user passwords and for any user breach of these Terms and Conditions. Customer is prohibited from storing, distributing or transmitting any unlawful material through the Software. Examples of unlawful material include, but are not limited to, threats of physical harm, child pornography, spam and copyrighted, trademarked and other proprietary material used without proper authorization. The storage, distribution or transmission of unlawful materials would be a material breach of these Terms and Conditions and could subject Customer to criminal as well as civil liability, in addition to the actions outlined within.

**9. GENERAL PROVISIONS.** (a) The order form and these Terms and Conditions constitute the final agreement between the parties relating in any manner to the Services and the Software. These Terms and Conditions supersede all prior and contemporaneous negotiations, correspondence, understandings and agreements between the parties relating to the subject matter hereof. These Terms and Conditions may be amended (including the purchase of

new services), and its provisions may be waived, only by the written agreement (including but not limited to an authenticated electronic record) of the parties. (b) If any provision hereof is held invalid, illegal or unenforceable, such holding shall not affect any other provisions hereof. (c) Customer may not assign or transfer these Terms and Conditions without the written consent of Vetstreet. (d) Vetstreet shall not be responsible for delays or failures to perform resulting directly or indirectly from governmental orders or restrictions, fire, flood, or other acts of God or nature, accident, war, terrorism, civil disturbance, or any other cause(s) beyond its control. (e) The laws of the State of New York shall govern these Terms and Conditions without regard to its provisions regarding conflict of laws. The parties irrevocably submit to the jurisdiction of the federal courts sitting in the Eastern and Southern Districts of New York or any New York state courts in the counties of Nassau and Suffolk, for the purpose of any suit, action or proceeding arising out of these Terms and Conditions. (f) Vetstreet is an independent contractor, and shall not be considered employees of Customer. (f) all notices and communications conveyed hereunder shall be deemed given: (a) if in writing and served personally, (b) if by fax or email, upon receipt of confirmation of complete transmission, (c) if by an overnight delivery service, upon confirmed delivery, or (d) if by United States mail, certified or registered, postage prepaid, return receipt requested, upon confirmed delivery.