ARYN, INC.
Terms of Service
Last Updated: August 21, 2024

These Terms of Service, including our Privacy Policy, which is incorporated herein by reference (together, this "**Agreement**"), is a legally binding contract between you and Aryn, Inc. ("**Aryn**") regarding your use of the Service. References to "**Customer**," "**you**", and "**your**" refer to the individual accepting this Agreement, registering for an account, or otherwise using, downloading, or installing all or any part of the Service. If the Service is being used on behalf of a company, organization, or other entity by an individual authorized to accept this Agreement on its behalf, then all references to "Customer," "you," or "your" refer to such entity. If you are a company, organization, or other entity, the individual accepting this Agreement on your behalf represents and warrants that they have authority to bind you to this Agreement.

PLEASE READ THE FOLLOWING TERMS CAREFULLY:

BY ACCEPTING THIS AGREEMENT, EITHER BY (1) CLICKING A BOX INDICATING YOUR ACCEPTANCE, (2) USING, DOWNLOADING, OR INSTALLING THE SERVICE OR OUR API, OR (3) OTHERWISE AFFIRMATIVELY INDICATING YOUR ACCEPTANCE OF THIS AGREEMENT, YOU AGREE THAT YOU HAVE READ AND UNDERSTOOD, AND, AS A CONDITION TO YOUR USE OF THE SERVICE, YOU AGREE TO BE BOUND BY, THE FOLLOWING TERMS AND CONDITIONS, INCLUDING OUR PRIVACY POLICY. IF YOU ARE NOT ELIGIBLE, OR DO NOT AGREE TO THE TERMS AND CONDITIONS SET FORTH HEREIN, THEN YOU DO NOT HAVE OUR PERMISSION TO USE THE SERVICE. YOUR USE OF THE SERVICE, AND OUR PROVISION OF THE SERVICE TO YOU, CONSTITUTES AN AGREEMENT BY US AND BY YOU TO BE BOUND BY THESE TERMS.

---

1. **The Service.**

1.1. <u>Permitted Use</u>. Subject to your compliance with the terms of this Agreement, you may access and use the Service for your internal business purposes.

1.2. <u>API</u>. Subject to your compliance with the terms of this Agreement and the Documentation, Aryn grants you a limited, non-transferable, revocable, non-exclusive, non-sublicensable right and license for each User to: (a) download software or use the API we make available to you; and (b) use that API for the sole purpose of accessing and using the Service. If Aryn issues an Updated API or software, you will promptly replace the previous software or stop using the previous API and use the updated API.

1.3. <u>Users</u>. Only Users, using the mechanisms designated by us ("**Log-in Credentials**"), may access and use the Service. Each User must keep its Log-in Credentials confidential and not share them with anyone else. You are responsible for your Users' compliance with this Agreement and all actions taken through their Log-in Credentials (excluding misuse of the Log-in Credentials caused by our breach of this Agreement). You will promptly notify us if you become aware of any compromise of any Log-in Credentials.

1.4. <u>Restrictions</u>. Customer will not (and will not permit anyone else to) do any of the following: (a) provide access to, distribute, sell, or sublicense the Service, API, or software to a third party (other than Users); (b) use the Service or API to develop a similar or competing product, service, or machine learning model; (c) reverse engineer, decompile, disassemble, or seek to access the source code or non-public APIs to the Service, except to the extent expressly permitted by Law (and then only with prior notice to us); (d) modify or create derivative works of the Service or API or copy any element of the Service or API (other than authorized copies of the API); (e) remove or obscure any proprietary notices in the Service or API; (f) publish benchmarks or performance information about the Service or API; (g) interfere with the operation of the Service or API, circumvent any access restrictions, or conduct any security or vulnerability test of the Service or API; (i) transmit any viruses or other harmful materials to or through the Service or API; (j) take any action that risks harm to others or to the security, availability, or integrity of the Service; or (k) access or use the Service in a manner that violates any Law. Additionally, Customer must not use the Service with Prohibited Data or for High Risk Activities. Customer acknowledges that the Service is not intended to meet any legal obligations for these uses, including HIPAA requirements, and that Aryn is not a Business Associate as defined under HIPAA. Notwithstanding anything else in this Agreement, Aryn has no liability for Prohibited Data or use of the Service for High Risk Activities.

2. **Upgrades**. Your purchase of access to the Service is not contingent on the delivery of any future functionality or features or dependent on any oral or written public or private comments made by us regarding future functionality or features of the

Service. From time to time, we, in our sole discretion, may make available Upgrades under additional or different terms. Nothing in this Agreement obligates us to make Upgrades available to you as part of the Service or otherwise.

3. Data.

3.1. Use of Customer Data. You grant us the non-exclusive, worldwide, sublicensable right to use, copy, store, disclose, transmit, transfer, modify, and create derivative works from Customer Data only as necessary to: (a) provide the Service; (b) derive or generate Usage Data; and (c) if Customer is utilizing the Service as part of a free trial or an unpaid tier, create and compile user submitted data, Customer Data, and Aggregated Data for our business purposes, including to train, develop, and improve our products and services.

3.2. Usage Data; Aggregated Data. We may Process Usage Data and Aggregated Data for our internal business purposes, such as to: (a) track use of the Service for billing purposes; (b) provide support for the Service; (c) monitor the performance and stability of the Service; (d) prevent or address technical issues with the Service; (e) to improve the Service, its other products and services, and to develop new products and services; and (f) for all other lawful business practices, such as analytics, benchmarking, and reports.

4. Customer Obligations. Customer is responsible for its Customer Data, including its content and accuracy, and will comply with Laws and the terms of this Agreement when using the Service. Customer represents and warrants that it has made all disclosures, provided all notices, and has obtained all rights, consents, and permissions necessary for Aryn to Process Customer Data as set forth in this Agreement without violating or infringing Laws, third-party rights, or terms or policies that apply to the Customer Data.

5. Suspension of Service. We may immediately suspend you and your User's access to any or all of the Service if: (a) you or your Users breach Section 1.4 (Restrictions) or Section 4 (Customer Obligations); (b) your account is 30 days or more overdue; (c) changes to Laws or new Laws require that we suspend the Service or otherwise may impose additional liability on us; (d) you or your Users actions risk harm to any of our other customers or the security, availability, or integrity of the Service; or (e) if you are accessing the Service on a free or trial tier and you exceed our usage limits for free or trial tier customers. Where practicable, we will use reasonable efforts to provide you with prior notice of the suspension (email sufficing). (f) You or your Users sign-up with an email alias as the account email.

6. Commercial Terms.

6.1. General Payment Terms. Certain features of the Service may require you to pay fees. Before you pay any fees, you will have an opportunity to review and accept the fees that you will be charged. All fees are in U.S. Dollars and are non-refundable, except as required by Law.

6.2. Price. We reserve the right to determine pricing for the Service. We will make reasonable efforts to keep pricing information published on the Service up to date. We encourage you to check our pricing page periodically for current pricing information. We may change the fees for any feature of the Service, including additional fees or charges, if we give you advance notice of changes before they apply. We, at our sole discretion, may make promotional offers with different features and different pricing to any of our customers. These promotional offers, unless made to you, will not apply to your offer or this Agreement.

6.3. Authorization. You authorize us to charge all sums for the level of Service you select as described in this Agreement or published by us, including all applicable taxes, to the payment method specified in your account. If you pay any fees with a credit card, then we may seek pre-authorization of your credit card account prior to your purchase to verify that the credit card is valid and has the necessary funds or credit available to cover your purchase. In addition to the amount due for the Service, a delinquent account will be charged with fees or charges that are incidental to any chargeback or collection of any the unpaid amount, including collection fees.

7.   Disclaimers. The Service, API, and all other Aryn services are provided "AS IS". Aryn, on its own behalf and on behalf of its suppliers and licensors, makes no other warranties, whether express, implied, statutory, or otherwise, including warranties of merchantability, fitness for a particular purpose, title, or noninfringement. Aryn does not warrant that Customer's use of the Service will be uninterrupted or error-free, that Aryn will review Customer Data for accuracy, or that it will maintain Customer Data without loss. Aryn is not liable for delays, failures, or problems inherent in the use of the Internet and electronic communications or other systems outside Aryn's control. Customer may have other statutory rights, but any statutorily required warranties will be limited to the shortest legally permitted period.

8.   Term and Termination.

8.1. Term. The term of this Agreement (the "**Term**") starts on the date you accept this Agreement or first download, install, access, or use the Service, and continues until expiration or termination.

8.2. Termination. If you violate any provision of this Agreement, then your authorization to access the Service and this Agreement automatically terminates. In addition, we may, at our sole discretion, terminate this Agreement or your account on the Service, or suspend or terminate your access to the Service, at any time for any reason or no reason, with or without notice, and without any liability to you arising from such termination. You may terminate your account and this Agreement at any time by contacting customer service at support@aryn.ai.

8.3. Effect of Termination. Upon termination of this Agreement: (a) your license rights will terminate and you must immediately cease all use of the Service; (b) you will no longer be authorized to access your account or the Service; (c) your license to the API will terminate; (d) you must pay us any unpaid amount that was due prior to termination; and (e) all payment obligations accrued prior to termination and Sections 1.4, 3.2, 6.3, 7, 8.3, 9, 10, 11, 12, 13, and 15 will survive. You are solely responsible for retaining copies of any Customer Data you submit, upload, publish, or otherwise transmit ("**Post**") to the Service since upon termination of your account, you may lose access rights to any Customer Data you Posted to the Service. If your account has been terminated for a breach of this Agreement, then you are prohibited from creating a new account on the Service using a different name, email address or other forms of account verification. Except where an exclusive remedy is provided in this Agreement, exercising a remedy under this Agreement, including termination, does not limit other remedies a party may have.

9.   Ownership. Neither party grants the other any rights or licenses not expressly set out in this Agreement. Except as expressly provided in this Agreement, as between the parties, Customer retains all intellectual property rights and other rights in Customer Data provided to Aryn. Except for Customer's use rights in this Agreement, Aryn and its licensors retain all intellectual property rights and other rights in the Service, APIs, Software, Documentation, Usage Data, and Aryn technology, templates, formats, and dashboards, including any modifications or improvements to these items made by Aryn. If Customer provides Aryn with feedback or suggestions regarding the Service or other Aryn offerings, Aryn may use the feedback or suggestions without restriction or obligation.

10. Limitations of Liability.

10.1.   Consequential Damages Waiver. **Except for Excluded Claims (as defined below) neither party (nor its suppliers or licensors) will have any liability arising out of or related to this Agreement for any loss of use, lost data, lost profits, failure of security mechanisms, interruption of business, or any indirect, special, incidental, reliance, or consequential damages of any kind, even if informed of their possibility in advance.**

10.2.   Liability Cap. **Our (and our suppliers' and licensor's) entire liability arising out of or related to this Agreement will not exceed the greater of: (a) the amount you have paid to us for access to and use of the Service in the 12 months prior to the event or circumstance giving rise to the claim and (b) $100.**

10.3.   Excluded Claims. "**Excluded Claims**" means: (a) Customer's breach of Sections 1.4 (Restrictions) or 4 (Customer Obligations); (b) either party's breach of Section 12 (Confidentiality) (but excluding claims relating to Customer Data); or (c) amounts payable to third parties under the indemnifying party's obligations in Section 11 (Indemnification).

10.4.   Nature of Claims and Failure of Essential Purpose. The waivers and limitations in this Section 10.4 apply regardless of the form of action, whether in contract, tort (including negligence), strict liability or otherwise and will survive and apply even if any limited remedy in this Agreement fails of its essential purpose.

11. Indemnification.

11.1.   Indemnification by Aryn. Aryn will defend Customer from and against any third-party claim to the extent alleging that the Service, when used by Customer as permitted by this Agreement infringes or misappropriates a third-party's U.S. patent, copyright, trademark, or trade secret, and will indemnify and hold harmless Customer against any damages and costs awarded against Customer (including reasonable attorneys' fees) or agreed in a settlement by Aryn resulting from the claim.

11.2. Indemnification by Customer. Customer will defend Aryn from and against any third-party claim to the extent resulting from Customer Data or Customer's breach or alleged breach of Section 4 (Customer Obligations), and will indemnify and hold harmless Aryn against any damages and costs awarded against Aryn (including reasonable attorneys' fees) or agreed in a settlement by Customer resulting from the claim.

11.3. Procedures. The indemnifying party's obligations in this Section 11 are subject to it receiving: (a) prompt written notice of the claim; (b) the exclusive right to control and direct the investigation, defense, and settlement of the claim; and (c) all reasonably necessary cooperation of the indemnified party, at the indemnifying party's expense for reasonable out-of-pocket costs. The indemnifying party may not settle any claim without the indemnified party's prior consent if settlement would require the indemnified party to admit fault or take or refrain from taking any action (other than relating to use of the Service, when Aryn is the indemnifying party). The indemnified party may participate in a claim with its own counsel at its own expense.

11.4. Mitigation. In response to an actual or potential infringement or misappropriation claim or otherwise relating to violation of intellectual property rights, if required by settlement or injunction or as Aryn determines necessary to avoid material liability, Aryn may at its option: (a) procure rights for Customer's continued use of the Service; (b) replace or modify the allegedly infringing portion of the Service to avoid infringement or misappropriation without reducing the Service's overall functionality; or (c) terminate the Agreement.

11.5. Exceptions. Aryn's obligations in this Section 11 do not apply: (a) to infringement or misappropriation resulting from Customer's modification of the Service or use of the Service in combination with items not provided by Aryn; (b) to infringement resulting from Software other than the most recent release; (c) to unauthorized use of the Service; (d) if Customer settles or makes any admissions about a claim without Aryn's prior consent; or (e) to free or evaluation use.

11.6. Exclusive Remedy. **This Section 11 sets out Customer's exclusive remedy and Aryn's entire liability regarding infringement or misappropriation of third-party intellectual property rights**.

12. Confidentiality.

12.1. Definition. "**Confidential Information**" means information disclosed to the receiving party ("**Recipient**") under this Agreement that is designated by the disclosing party ("**Discloser**") as proprietary or confidential or that should be reasonably understood to be proprietary or confidential due to its nature and the circumstances of its disclosure. Aryn's Confidential Information includes the terms and conditions of this Agreement and any technical or performance information about the Service. Customer's Confidential Information includes Customer Data.

12.2. Obligations. As Recipient, each party will: (a) hold Confidential Information in confidence and not disclose it to third parties except as permitted in this Agreement; and (b) only use Confidential Information to fulfill its obligations and exercise its rights in this Agreement.

12.3. Exclusions. These confidentiality obligations do not apply to information that Recipient can document: (a) is or becomes public knowledge through no fault of the receiving party; (b) it rightfully knew or possessed prior to receipt under this Agreement; (c) it rightfully received from a third party without breach of confidentiality obligations; or (d) it independently developed without using Confidential Information.

12.4. Remedies. Unauthorized use or disclosure of Confidential Information may cause substantial harm for which damages alone are an insufficient remedy. Each party may seek appropriate equitable relief, in addition to other available remedies, for breach or threatened breach of this Section 12.

13. Required Disclosures. Nothing in this Agreement prohibits either party from making disclosures, including of Customer Data and other Confidential Information, if required by Law, subpoena, or court order, provided (if permitted by Law) it notifies the other party in advance and cooperates in any effort to obtain confidential treatment.

14. Publicity. Neither party may publicly announce that the parties have entered into this Agreement, except with the other party's prior consent or as required by Laws. However, Aryn may include Customer and its trademarks in Aryn's customer lists and promotional materials but will cease further use at Customer's written request.

15. General Terms.

15.1. **Modification of Terms**. We may, from time to time, change this Agreement. Please check this Agreement periodically for changes. Revisions will be effective immediately except that, for existing users, material revisions will be effective 30 days after posting or notice to you of the revisions unless otherwise stated. We may require that you accept modified Terms in order to continue to use the Service. If you do not agree to the modified Terms, then you should remove your Customer Data and discontinue your use of the Service. Except as expressly permitted in this Section 15.1 (*Modification of Terms*), this Agreement may be amended only by a written agreement signed by authorized representatives of the parties to this Agreement.

15.2. **Modification of the Service**. We reserve the right to modify or discontinue all or any portion of the Service at any time (including by limiting or discontinuing certain features of the Service), temporarily or permanently, without notice to you. We will have no liability for any change to the Service, including any paid-for functionalities of the Service, or any suspension or termination of your access to or use of the Service. You should retain copies of any Customer Data you Post to the Service so that you have permanent copies in the event the Service is modified in such a way that you lose access to Customer Data you Posted to the Service.

15.3. Privacy Policy. Please read our [Privacy Policy](#) (the "**Privacy Policy**") carefully for information relating to our collection, use, storage, and disclosure of your personal information. The Aryn Privacy Policy is incorporated by this reference into, and made a part of, this Agreement.

15.4. Additional Terms. Your use of the Service is subject to all additional terms, policies, rxules, or guidelines applicable to the Service or certain features of the Service that we may post on or link to from the Service (the "**Additional Terms**"). All Additional Terms are incorporated by this reference into, and made a part of, this Agreement.

15.5. Consent to Electronic Communications. By using the Service, you consent to receiving certain electronic communications from us as further described in our Privacy Policy. Please read our Privacy Policy to learn more about our electronic communications practices. You agree that any notices, agreements, disclosures, or other communications that we send to you electronically will satisfy any legal communication requirements, including that those communications be in writing.

15.6. Promotional Emails. We may send you emails concerning our products and services, as well as those of third parties. You may opt out of promotional emails by following the unsubscribe instructions in the promotional email itself.

15.7. Assignment. Neither party may assign this Agreement without the prior consent of the other party, except that either party may assign this Agreement in connection with a merger, reorganization, acquisition, or other transfer of all or substantially all its assets or voting securities to the other party involved in such transaction. Any non-permitted assignment is void. This Agreement will bind and inure to the benefit of each party's permitted successors and assigns.

15.8. Governing Law, Jurisdiction and Venue. This Agreement is governed by the laws of the State of California and the United States without regard to conflicts of laws provisions that would result in the application of the laws of another jurisdiction and without regard to the United Nations Convention on the International Sale of Goods. The jurisdiction and venue for actions related to this Agreement will be the state and United States federal courts located in San Francisco, California and both parties submit to the personal jurisdiction of those courts.

15.9. Attorneys' Fees and Costs. The prevailing party in any action to enforce this Agreement will be entitled to recover its attorneys' fees and costs in connection with such action.

15.10. Notices. Except as set out in this Agreement, any notice or consent under this Agreement must be in writing to the addresses on the first page and will be deemed given: (a) upon receipt if by personal delivery; (b) upon receipt if by certified or registered U.S. mail (return receipt requested); or (c) one day after dispatch if by a commercial overnight delivery service. Notices may not be sent via email unless otherwise expressly permitted elsewhere in this Agreement. Either party may update its address with notice to the other party. Aryn may also send operational notices to Customer by email or through the Service.

15.11. Entire Agreement. This Agreement is the parties' entire agreement regarding its subject matter and supersedes any prior or contemporaneous agreements regarding its subject matter. In this Agreement, headings are for convenience only and "including" and similar terms are to be construed without limitation.

15.12. Amendments. Any amendments, modifications, or supplements to this Agreement must be in writing and signed by each party's authorized representatives or, as appropriate, agreed through electronic means provided by Aryn.

15.13. Waivers and Severability. Waivers must be signed by the waiving party's authorized representative and cannot be implied from conduct. If any provision of this Agreement is held invalid, illegal, or unenforceable, it will be limited to the minimum extent necessary so the rest of this Agreement remains in effect.

15.14. Force Majeure. Neither party is liable for any delay or failure to perform any obligation under this Agreement (except for a failure to pay fees) due to events beyond its reasonable control, such as a strike, blockade, war, pandemic, act of terrorism, riot, Internet or utility failures, refusal of government license, or natural disaster.

15.15. Subcontractors. Aryn may use subcontractors and permit them to exercise Aryn's rights, but Aryn remains responsible for their compliance with this Agreement and for its overall performance under this Agreement.

15.16. Independent Contractors. The parties are independent contractors, not agents, partners, or joint venturers.

15.17. <u>Export</u>. Customer will comply with all relevant U.S. and foreign export and import Laws in using any Service. Customer: (a) represents and warrants that it is not listed on any U.S. government list of prohibited or restricted parties or located in (or a national of) a country that is subject to a U.S. government embargo or that has been designated by the U.S. government as a "terrorist supporting" country; (b) agrees not to access or use the Service in violation of any U.S. export embargo, prohibition, or restriction; and (c) will not submit to the Service any information controlled under the U.S. International Traffic in Arms Regulations.

15.18. <u>Open Source</u>. The Software may incorporate open source software ("**OSS**"), and it may be listed in the Documentation or otherwise disclosed by Aryn in writing. To the extent required by the OSS license, that license will apply to the OSS on a stand-alone basis instead of this Agreement.

15.19. <u>Government End-Users</u>. Elements of the Service are commercial computer software. If the user or licensee of the Service is an agency, department, or other entity of the United States Government, the use, duplication, reproduction, release, modification, disclosure, or transfer of the Service or any related documentation of any kind, including technical data and manuals, is restricted by the terms of this Agreement in accordance with Federal Acquisition Regulation 12.212 for civilian purposes and Defense Federal Acquisition Regulation Supplement 227.7202 for military purposes. The Service was developed fully at private expense. All other use is prohibited.

15.20. <u>Conflicts in Interpretation</u>. If there are inconsistencies or conflicts between the terms of the body of this Agreement and the terms of any exhibits, attachments, addenda, and other documents attached to or incorporated by reference in this Agreement, the order of precedence is as follows: (a) the terms contained in the body of this Agreement; (b) the terms of the exhibits, attachments, and addenda to this Agreement; and (c) the Documentation.

Exhibit A

Definitions

1.1. "**Aggregated Data**" means Customer Data that has been deidentified or aggregated with other data such that the resulting data no longer reasonably identifies Customer or a specific individual.

1.2. "**Confidential Information**" has the meaning given to it in Section 12.1.

1.3. "**Customer Data**" means any data or information that: (a) Customer (including its Users) submits to the Service; and (b) is Processed by Aryn to provide the Service to Customer.

1.4. "**Discloser**" has the meaning given to it in Section 12.1.

1.5. "**Documentation**" means the then-current version of Aryn's usage guidelines and standard technical documentation for the Service that Aryn makes generally available to its customers that it provides the Service to, the current version of which is at https://github.com/aryn-ai/sycamore.

1.6. "**Excluded Claims**" has the meaning given to it in Section 10.3.

1.7. "**Fees**" has the meaning given to it in Section 6.1.

1.8. "**High Risk Activities**" means activities where use or failure of the Service could lead to death, personal injury, or environmental damage, including life support systems, emergency services, nuclear facilities, autonomous vehicles, or air traffic control.

1.9. "**Laws**" means all applicable relevant local, state, federal and international laws, regulations and conventions, including those related to data privacy and data transfer, international communications, and export of data, including Customer Personal Data and Customer Personal Information.

1.10. "**Log-in Credentials**" has the meaning given to it in Section 1.3.

1.11. "**OSS**" has the meaning given to it in Section 15.18.

1.12. "**Process**" means to collect, access, use, disclose, transfer, transmit, store, host, or otherwise process.

1.13. "**Prohibited Data**" means any: (a) special categories of data enumerated in European Union Regulation 2016/679, Article 9(1) or any successor legislation; (b) patient, medical, or other protected health information regulated by the Health Insurance Portability and Accountability Act (as amended and supplemented) ("**HIPAA**"); (c) credit, debit, or other payment card data subject to the Payment Card Industry Data Security Standards; (d) other information subject to regulation or protection under specific Laws such as the Children's Online Privacy Protection Act or Gramm-Leach-Bliley Act (or related rules or regulations); (e) social security numbers, driver's license numbers, or other government ID numbers; or (f) any data similar to the above protected Laws.

1.14. "**Recipient**" has the meaning given to it in Section 12.1.

1.15. "**Service**" means the then-current version of Aryn's proprietary cloud service and includes the API, Software, and Documentation for the Service.

1.16. "**Software**" means any software, scripts, or other code required by Aryn to operate the Service including the API.

1.17. "**Term**" has the meaning given to it in Section 8.1.

1.18. "**Updates**" means any updates, modifications, or bug fixes to the Service or Documentation that Aryn provides free of additional charge to its customers using the Service.

1.19. "**Upgrades**" means additions, enhancements, upgrades, new services, or modules that include new features and substantial increases in functionality to the Service that Aryn makes available to its customers for an additional fee.

1.20. "**Usage Data**" means information generated from the use of the Service, such as technical logs, data, and learnings about Customer's use of the Service.

1.21. "**User**" means any employee or contractor of Customer that Customer allows to use the Service on Customer's behalf.