

## TERMS OF SERVICE

*Effective Date: Jun 14, 2021*

The creators of DiagnosUs (referred to here as “DiagnosUs,” “we,” “us,” or “our”) are offering this application as a service that tests user medical knowledge, by allowing users to analyze various medical images. The application is designed to quiz users on their medical knowledge, calibrate user contest scores, and aggregate/compare scores for user feedback in order to enhance user operability of the application.

These Terms of Service (the “Terms”) govern your use of the DiagnosUs application and its related contents and services (collectively, the “Services”). Please read these Terms and our corresponding [Privacy Policy](#), which discusses how we collect, process, and disclose personal information through these Services.

**PLEASE NOTE THAT THESE TERMS CONTAIN AN ARBITRATION CLAUSE, WHICH REQUIRES YOU TO ARBITRATE MOST DISPUTES BETWEEN DIAGNOSUS AND YOU. IF YOU DO NOT AGREE TO THIS CLAUSE, DO NOT USE THE SERVICES.**

### 1. Acceptance of Terms

By using the Services, you agree to comply with and be legally bound by these Terms, whether or not you become a registered user of the Services. These Terms govern your access to and use of the Services and constitute a binding legal agreement between you and DiagnosUs. If there is a conflict between these Terms and any terms and conditions posted for any additional DiagnosUs services separate and apart from these Services, the latter terms and conditions will take precedence with respect to your use of those services. DiagnosUs reserves all rights that we do not explicitly grant to you in these Terms.

### 2. Modification

DiagnosUs reserves the right, at its sole discretion, to modify these Terms at any time and without prior notice. If we modify these Terms, we will either post the modification or otherwise provide you with notice of the modification. The date of the last modification will also be posted at the beginning of these Terms. It is your responsibility to check from time to time for updates. By continuing to access or use the Services, you indicate that you agree to be bound by any modified Terms.

### 3. Eligibility

The Services are intended solely for persons who are at least 18 years old. By accessing or using the Services you represent and warrant that you are at least 18 years old. If you are not 18 or older, you may not use the Services.

#### 4. How Our Services Work

The Services are designed to help students, healthcare professionals, and others learn to diagnose various medical conditions by assessing anonymized medical images. Users are quizzed on their medical knowledge and ability to diagnose medical images, and their quiz scores may be reflected on their user profile as well as aggregated with other user scores to show aggregate quiz scores. DiagnosUs grants you a worldwide, non-exclusive, non-transferable right to use the Services only for your personal use, subject to these Terms.

The Services may also contain a “leaderboard” that shows the top scores with the accompanying username from each Contest. Leaders may receive incentives for making the board.

We may also use data that we collect from you and other users for any lawful purpose, as described in this Agreement and in our Privacy Policy. For example, we may use your assessment of images for the creation of labeled datasets.

#### 5. Account Registration

In order to access the Services, you must register for an account. By creating an account, you grant to DiagnosUs a worldwide, transferable, sub-licensable, royalty-free, right and license to host, store, use, copy, display, reproduce, adapt, edit, publish, modify and distribute information you submit or that we collect through your use of the Services for the purpose described in this Agreement. You may register directly or may be allowed to register through a third-party social networking site (“SNS,” including, but not limited to, Facebook). To register manually, you must provide a username, your email address, your medical institution affiliation (if applicable), and other information specified in the registration form.

Please note that your relationship with the third-party SNS are governed solely by your agreement(s) with such SNS services, and those agreements will determine what information DiagnosUs will be able to access and uses through those services.

Your DiagnosUs Account will be created for your use of the Services based upon the information you provide to us or that we obtain via an SNS as described above. You represent and warrant:

- (i) the information you provide or connect to DiagnosUs is true, accurate, current, and complete;
- (ii) you are at least 18 years of age; and
- (iii) you will maintain and promptly update the information you provide to keep it at all times true, accurate, current, and complete.

You are solely responsible for maintaining the strict confidentiality of your account, and for any and all damages or losses that may be incurred or suffered as a result of any activities on your account. You agree not to allow another person to use your account to access the Services.

The Services are not designed or intended to appeal to minors. All users of the Services

are required to represent that they are at least 18 years old, and DiagnosUs does not knowingly collect information from children under the age of 13. If a parent or guardian becomes aware that his or her child has provided us with information about their consent, they should contact us at [contact@diagnosus.com](mailto:contact@diagnosus.com) so we can promptly delete that information.

## 6. Contests

The quizzes that we make available through the Services form the basis of “Contests” through which you may be eligible to receive certain cash prizes (“Prizes”). Your participation in Contests and your receipt of Prizes are subject to our general [Contest Rules](#), as well as any additional rules that we may post related to a specific Contest or Contests, in addition to these Terms.

All Contest winners in the app over the previous year may be required to provide updated address and social security (or other tax identification number) details to DiagnosUs. These details will be used to allow DiagnosUs to comply with tax regulations and may be shared with appropriate tax authorities. You, not Company, are responsible for filing and paying applicable state and federal taxes on any winnings. Company does not provide tax advice, nor should any statements in this Agreement or on the Service be construed as tax advice.

All unclaimed winnings in the app more than a year old may be automatically forfeited. Withdrawals from the app totaling an amount of \$400 or over will be automatically subjected to a manual review process. You will be required to provide identification or official documentation verifying your identity before the withdrawal is processed. Under no circumstances will we be required to pay Contest prizes if we discover, or have a belief that you are in violation of these Terms or any rules applicable to Contest(s), in addition to any other remedies available to us.

## 7. User Conduct

You understand and agree that you are solely responsible for compliance with any and all laws, rules, and regulations that may apply to your use of the Services. You further agree that you will not:

- (A) violate these Terms;
- (B) access or use our Services to use, expose, or allow to be used or exposed, any content that DiagnosUs does not make available through the Services, including any content licensed from a third party that is not already publicly displayed by DiagnosUs, that in any way is inconsistent with these Terms or our Privacy Policy, or that in any way that violates the privacy rights or any other rights of any users or third party;
- (C) use the Services in a manner that falsely implies DiagnosUs’ endorsement, partnership, or otherwise misleads others as to your affiliation with DiagnosUs;
- (D) interfere with or damage our Services;
- (E) use our Services to transmit any information concerning any other person or entity, including without limitation, photographs of others, without their permission;
- (F) register for more than one Account or register for an Account on behalf of an

- individual other than yourself;
- (G) impersonate any person or entity, submit information to the Services that are false or misleading, or falsify or otherwise misrepresent yourself or your affiliation with any person or entity.
- (H) copy, distribute, perform, or display any Services content.
- (I) derive specifications from, reverse engineer, reverse compile, disassemble, translate, record, or create derivative works based on the Services or any Services content.
- (J) use the Services, or any Services content, in a way that is abusive, deceptive, or unlawful, including taking any action that we believe violates the Contest Rules, or otherwise gives you an unfair advantage in any Contest.
- (K) re-identify Services content.
- (L) reveal or attempt to reveal to anyone, for any reason, the identity of any user or any individual who is the subject of any Services content.

DiagnosUs reserves the right to void all activity in the account and the account holder will forfeit any winnings derived from gameplay that violates these Terms.

## 8. Collection and Use of Data

As you use the Services, DiagnosUs will gather and use information about you for a variety of purposes, including to provide, support and improve the Services, to integrate the Services with third-party service providers, and to create anonymized data that may be used for any lawful purpose. DiagnosUs' collection and use of data through the Services is governed by, and described in more detail in our corresponding [Privacy Policy](#). By using the Services, you agree to be bound by the terms of our Privacy Policy.

## 9. Intellectual Property

DiagnosUs' Services are protected by copyright, trademark, and other laws of the United States. You acknowledge and agree that the Services, and any derivative works created based on the Services or data collected through the Services, including all associated intellectual property rights, are the exclusive property of DiagnosUs and its licensors, and as such are used for identification purposes only. You will not remove, alter or obscure any copyright, trademark, service mark or other proprietary rights notices incorporated in or accompanying the Services. You agree that by using the Services, you acquire no rights to the Services, or any derivative works created from the Services or through your use of the Services, by DiagnosUs or any third-party.

## 10. Copyright Policy

DiagnosUs respects copyright law and expects its users to do the same. In accordance with the Digital Millennium Copyright Act ("DMCA") of 1998, the text of which may be found on the U.S. Copyright Office website at <https://www.copyright.gov/legislation/dmca.pdf>, DiagnosUs will respond expeditiously to claims of copyright infringement committed using the Diagnosis Services that are reported to us, provided they meet the criteria below.

If you are a copyright owner, or a designated agent thereof, please report alleged

copyright infringements taking place on or through the Services by providing us the following information:

- (A) the identity of the copyrighted work that you claim has been infringed, or, if multiple copyrighted works are covered by this Notice, a comprehensive list of the copyrighted works that you claim have been infringed;
- (B) the material that you claim is infringing, and information reasonably sufficient to permit us to locate the material, including at a minimum, the URL of the link shown on the Services where such material may be found;
- (C) your mailing address, telephone number, and, if available, email address;
- (D) a statement that you have a good faith belief that the disputed use of the copyrighted material is not authorized by the copyright owner, its agent, or the law;
- (E) a statement that the information in this Notice is accurate and, under penalty of perjury, that you are the owner, or authorized to act on behalf of the owner, of the copyright or of an exclusive right under the copyright that is allegedly infringed; and
- (F) your full legal name and your electronic or physical signature.

You may deliver this notice, with all items completed, to us:

Copyright Agent  
DiagnosUs  
883 Boylston St Ste 2  
Boston, MA, 02116  
contact@diagnosus.com

Upon receipt of the Notice as described below, DiagnosUs will take whatever action, in its sole discretion, it deems appropriate, including removal of the challenged material from the Services.

## 11. Feedback

We encourage you to provide feedback, comments, and suggestions for improvements to the Services (“Feedback”). You may submit Feedback by emailing us or by filling out a form on our website. You acknowledge and agree that if you submit any Feedback to us, you hereby grant to us a non-exclusive, perpetual, irrevocable, royalty-free, sub-licensable and transferable license under any and all intellectual property rights that you own or control in relation to the Feedback that allows us to use and exploit the Feedback for any purpose.

## 12. Disclaimer

DiagnosUs is an educational and training tool, and is not intended to serve the following needs: for individualized diagnostic services; to select, guide, or promote therapy of medical conditions; for use in hazardous circumstances or for uses requiring fail-safe performance; or in situations where failure could lead to death or personal injury (collectively, “Unauthorized Purposes”). You should not use the Services for such Unauthorized Purposes or under similar circumstances. In addition to being prohibited by these Terms, use of the Services for such Unauthorized Purposes may constitute a

violation of laws applicable to the practice of medicine or other health profession(s).

YOUR RELIANCE UPON THE CONTENT OBTAINED OR USED BY YOU THROUGH THE SERVICES IS SOLELY AT YOUR OWN RISK. THE SERVICES ARE PROVIDED "AS IS" AND WITH ALL FAULTS. DIAGNOSUS HEREBY DISCLAIMS ANY AND ALL WARRANTIES EXPRESS AND IMPLIED, INCLUDING BUT NOT LIMITED TO IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, OR ANY OTHER WARRANTY, CONDITION, OR GUARANTEE, WHETHER ORAL OR IN WRITING. NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED FROM DIAGNOSUS OR THROUGH THE SERVICES WILL CREATE ANY WARRANTY.

### 13. Limitation of Liability

NEITHER DIAGNOSUS NOR ANY OTHER PARTY INVOLVED IN CREATING, PRODUCING, OR DELIVERING THE SERVICES WILL BE LIABLE FOR ANY INCIDENTAL, SPECIAL, EXEMPLARY OR CONSEQUENTIAL DAMAGES, INCLUDING LOSS OF DATA OR LOSS OF GOODWILL, SERVICE INTERRUPTION, SYSTEM FAILURE, OR FOR ANY DAMAGES FOR PERSONAL OR BODILY INJURY OR EMOTIONAL DISTRESS ARISING OUT OF OR IN CONNECTION WITH THESE TERMS, FROM THE USE OF OR INABILITY TO USE THE SERVICES AS A RESULT OF YOUR USE OF THE SERVICES, WHETHER BASED ON WARRANTY, CONTRACT, TORT, PRODUCT LIABILITY OR ANY OTHER LEGAL THEORY, AND WHETHER OR NOT DIAGNOSUS HAS BEEN INFORMED OF THE POSSIBILITY OF SUCH DAMAGE, EVEN IF A LIMITED REMEDY SET FORTH HEREIN IS FOUND TO HAVE FAILED ITS ESSENTIAL PURPOSE. DIAGNOSUS' ENTIRE LIABILITY AND YOUR EXCLUSIVE REMEDY WITH RESPECT TO ANY DISPUTE WITH US (INCLUDING WITHOUT LIMITATION YOUR USE OF THE SERVICES) IS TO DISCONTINUE YOUR USE OF THE SERVICES WITHIN THE LIMITATIONS SET OUT BY STATUTORY LAW. IN ANY EVENT, IF ANY OF THE ABOVE PROVISIONS IN THIS SECTION ARE NOT ENFORCEABLE, THE MAXIMUM LIABILITY OF DIAGNOSUS WILL BE LIMITED TO, AT ITS SOLE DISCRETION, EITHER THE (1) CORRECTION OR DELETION OF ANY INACCURATE CONTENT OR LINK; OR (2) REFUND OF ANY FEES FOR THE SERVICES RECEIVED BY DIAGNOSUS FROM YOU IN THE 30 DAYS PRECEDING THE EVENT GIVING RISE TO SUCH LIABILITY.

### 14. Indemnity

You agree to defend, indemnify, and hold DiagnosUs and its officers, directors, employees and agents, harmless from and against any claims, liabilities, damages, losses, and expenses, proceedings or demands including, without limitation, reasonable legal and accounting fees, arising out of or in any way connected with your access to or use of the Services or your violation of these Terms.

### 15. Term and Termination

These Terms are effective and binding on you when you begin using the Services, and

will remain in effect for as long as you continue to use the Services or until they are amended or modified by DiagnosUs according to § 2, or terminated by DiagnosUs according to this section. DiagnosUs may immediately, without notice, terminate these Terms and disable your access to the Services if DiagnosUs, in its sole discretion, determines that (i) you have breached these Terms; (ii) you have provided inaccurate, fraudulent, outdated or incomplete information during account registration; (iii) you have violated applicable laws, regulations or third party rights; or (iv) DiagnosUs believes in good faith that such action is reasonably necessary to protect the safety or property of other users, DiagnosUs, or third parties. DiagnosUs may, at any time, and for any reason or no reason whatsoever, choose to cease providing the Services.

#### 16. No Waiver; Severability

The failure of DiagnosUs to enforce any right or provision of these Terms will not constitute a waiver of future enforcement of that right or provision. The waiver of any such right or provision will be effective only if in writing and signed by a duly authorized representative of DiagnosUs. If for any reason a court of competent jurisdiction finds any provision of these Terms invalid or unenforceable, that provision will be enforced to the maximum extent permissible and the other provisions of these Terms will remain in full force and effect.

#### 17. Governing Law

These Terms (and any further rules, policies, or guidelines incorporated by reference) shall be governed and construed in accordance with the laws of the Commonwealth of Massachusetts, United States. Except where such claims are barred by the Dispute Resolution section below, any action based on, relating to, or alleging breach of these Terms must be brought in state or federal courts in Middlesex County, Massachusetts. You agree to submit to the personal jurisdiction the state and federal courts for Middlesex County, Massachusetts for any actions for which the parties retain the right to seek injunctive or other equitable relief in a court of competent jurisdiction to prevent the actual or threatened infringement, misappropriation, or violation of a party's copyrights, trademarks, trade secrets, or patents.

#### 18. Dispute Resolution

Under these Terms, you agree that any dispute, claim, or controversy arising out of or relating to these Terms shall be determined by arbitration in accordance with the Judicial Arbitration and Mediation Services, Inc. ("JAMS") Streamlined Arbitration Rules and Procedures in front of one qualified arbitrator, who shall be selected from the appropriate list of JAMS arbitrators in accordance with such Rules. The JAMS Rules and instructions for how to initiate an arbitration are available from JAMS at <http://www.jamsadr.com> or 1-800-352-5267. This clause shall not preclude parties from seeking provisional remedies in aid of arbitration from a court of appropriate jurisdiction, or to seek injunctive relief in a court of competent jurisdiction to prevent the actual or threatened infringement, misappropriation, or violation of a party's copyrights, trademarks, trade secrets, or patents. For all purposes of these Terms, the parties consent to exclusive jurisdiction and venue in the state or federal courts listed in Section 16, above.

#### 19. Entire Agreement

These Terms (along with our Privacy Policy, Contest Rules, and any other terms and conditions posted on our website) constitute the entire agreement between you and the DiagnosUs regarding your use of the Services. Any modification by you to these Terms must be made in writing and signed by both parties.

## 20. Contact Us

If you have any questions about DiagnosUs or these Terms, you can contact us at [contact@diagnosus.com](mailto:contact@diagnosus.com)