



End User License Agreement

This End User License Agreement ("**EULA**") is effective as of the date you agree by clicking the "I Accept" button (the "**Effective Date**"). This EULA governs the terms and conditions of use of location and data tracking-enabled LifePort devices (the "**LifePort**") and is by and between Organ Recovery Systems, Inc. ("**Company**") and the entity on behalf of whom you are executing this EULA ("**Customer**").

By your clicking the "I Accept" button below, or by Customer otherwise using the LifePort, Customer agrees to and agrees to be bound by the terms and conditions of this EULA. These actions provide a clear and affirmative indication of Customer's acceptance of all terms and conditions contained herein, including any and all updates or amendments made hereto in the future. Failure to click the "I Accept" button will prevent Customer from accessing and using the Services associated with the LifePort. Customer's continued use of the Services following any updates or amendments to this EULA signifies its acceptance of those changes.

CUSTOMER REPRESENTS AND WARRANTS THAT THE PERSON CLICKING "I ACCEPT" AND ACCEPTING THIS EULA ON BEHALF OF CUSTOMER HAS ALL NECESSARY AUTHORITY TO BIND CUSTOMER AND ITS AFFILIATES TO THIS EULA. IF SUCH PERSON DOES NOT HAVE SUCH AUTHORITY, OR IF CUSTOMER DOES NOT AGREE WITH THE FULL TERMS AND CONDITIONS OF THIS EULA, SUCH PERSON MUST NOT EXECUTE THIS EULA ON CUSTOMER'S BEHALF, AND CUSTOMER MAY NOT USE THE SERVICES. PLEASE CAREFULLY READ THE FOLLOWING TERMS BEFORE EXECUTING THIS EULA.

1. Definitions

- a. **Additional Definitions.** All terms capitalized and not defined herein shall have the meaning as defined in the Terms and Conditions.
- b. **"Administrative Users"**. Customer may designate up to three (3) Administrative Users upon initiation of the Services. Administrative Users are Users who have been designated by Customer to hold primary responsibility related to Customer's use of the Services and handle all contacts between Customer and Company, including any service requests. Company will provide initial access to the Services to Customer's Administrative User(s). Customer may revise its Administrative User(s) from time to time by contacting Company.
- c. **"Affiliate"** means any entity which directly or indirectly, through one or more intermediaries, controls, or is controlled by, or is under common control with a party, by way of majority voting stock ownership or the ability to otherwise direct or cause the direction of the management and policies of a party.
- d. **"Company Partner"** means any authorized entity which directly or indirectly provides, facilitates, or otherwise assists in providing the Services.
- e. **"Service"** means Company's provision of the LifePort to Customer, which includes the application service and all other functions and services Company provides to Customer in connection with the LifePort.
- f. **"Users"** means individuals who are provided authorized access to use the Services by Customer Administrative Users, including those individuals who have been supplied user identifications, passwords or LifePort tracking information by Customer specifically for the use of such individuals for the benefit of Customer. "Users" include Customer and Customer's employees, consultants, contractors and agents.

2. General

- a. This EULA, together with the Terms and Conditions, and Warranty (collectively, the "**Terms**"), represent the entire agreement between Company and Customer and supersede in their



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entirety all prior agreements, proposals and understandings concerning the subject matter hereof and thereof. Any oral or written representation, warranty, course of dealing or trade usage not set forth in this EULA or in the Warranty shall not be binding. Company offers no warranties or guarantees of any kind with respect to its services, except as set forth in a separate written agreement executed by a duly authorized officer of Company and Customer.

- b. Except as otherwise expressly provided in this EULA, all representations, warranties, and covenants with respect to the Services are exclusively set forth in the Terms.
- c. In the event of a conflict between this EULA, the Terms and Conditions, and the Warranty, the EULA, then the Terms and Conditions, and then the Warranty shall be the order in which terms prevail.

3. Right of Access

- a. Subject to and conditioned on Customer's compliance with the terms and conditions of the Terms, including this EULA, Company hereby grants Customer a non-exclusive, non-transferable right to access and use the Services, solely for use by Administrative Users and Users in accordance with this EULA. Such use is limited to Customer's internal use by Administrative Users and Users.

4. Passwords, Access, and Notification Access Credentials

- a. Company shall provide to Customer the Administrative User passwords and access credentials necessary to allow Customer to access and initiate the Services. Customer Administrative Users are responsible for managing Users and their access to the Services, including (i) provision of access credentials to the Services, (ii) the issuance of usernames and passwords, and (iii) compliance by Users with the terms of this EULA. Company is not responsible for management of User access, usernames or passwords, and assumes no liability for the confidentiality of Administrative User or User passcodes, usernames or access credentials. There is no current limit on the number of Users, but Company reserves the right to implement such a limit at any time in its discretion.
- b. User logins are for Users only as granted by Customer's Administrative Users and cannot be shared or used by more than one User. Customer is responsible for the confidentiality and use of User's passwords and usernames. Customer is also responsible for all Electronic Communications, including those containing business information, account registration, account holder information, financial information, Customer Data, and all other data of any kind contained within emails or otherwise entered electronically through the Services or under Customer's account. Company will treat any Electronic Communications it receives under Customer's passwords, username, and/or account as having been sent by Customer. Customer agrees it is solely responsible to terminate use of and access to the Services by any individual that is no longer an authorized Administrative User or a User and Customer agrees to revoke such access in a timely manner.
- c. "**Electronic Communications**" means any transfer of signs, signals, text, images, sounds, data or intelligence of any nature transmitted in whole or part electronically received and/or transmitted through the Services.
- d. "**Customer Data**" means all electronic data or information submitted to Company or the Services by Customer or its Affiliates as a result of this EULA. Customer shall use commercially reasonable efforts to prevent unauthorized access to or use of the Services and shall promptly notify Company of any unauthorized access or use of the Services and any loss or theft or unauthorized use of any User's username or password and/or Service account information.

5. Use Restrictions

- a. Customer shall not use the Services for any purposes beyond the scope of the access



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granted in this EULA and the intended purposes of the Services. Customer shall not at any time, directly or indirectly, and shall not permit any Users to: (i) copy, modify, or create derivative works of the Services or any related documentation, in whole or in part; (ii) rent, lease, lend, sell, license, sublicense, assign, distribute, publish, transfer, or otherwise make available the Services to any person that is not a User; (iii) reverse engineer, disassemble, decompile, decode, adapt, or otherwise attempt to derive or gain access to any software component of the Services, in whole or in part; (iv) remove any proprietary notices from the Services; (v) use the Services in any manner or for any purpose that infringes, misappropriates, or otherwise violates any intellectual property right or other right of any person, or that violates any applicable law, or otherwise violates this EULA; (vi) implement the Services to operate in or as a time-sharing, outsourcing, Application Service Provider (ASP), or service bureau environment; (vii) use the Service to store or transmit infringing, libelous, or otherwise unlawful or tortious material, or to store or transmit material in violation of third-party privacy rights, (viii) use the Service to store or transmit any malicious code or virus, or (ix) interfere with or disrupt the integrity or performance of the Service. Any attempt to transfer any of the rights, duties or obligations hereunder except as expressly provided for in this EULA is void.

- b. Data provided to Customer and any Administrative User or End User through the use of the LifePort and the Services is for information purposes only and should not be used for, or relied upon, in any way for any medical decision. Customer acknowledges and agrees that Company makes no recommendations, interpretations, diagnoses or therapeutic decisions based on any such data, all of which are the sole responsibility of Customer, the transplant surgeon and any other medical professionals reviewing or interpreting that data, and Company has no liability to Customer, any medical professional, or any transplant recipient resulting from the use of such data. Company disclaims all decisions regarding the suitability of an organ for transplant, which are solely the province and responsibility of the Customer, the transplant surgeon and all such other medical professionals, based on clinical assessments of the subject organ, associated donor history and such other factors as they or any one of them determine.

6. Non-Use Cancellation

- a. Customer shall have the ability to access the Services for so long as Customer owns the LifePort. There is no term on the use of the Services. However, Customer agrees Company shall have the right to terminate or suspend access to the Services if Customer has not used or connected to the Services for twelve consecutive (12) months from the prior use.

7. Customer Data Ownership

- a. As between Company and Customer, all title and intellectual property rights in and to Customer Data is owned exclusively by Customer. Customer further acknowledges that Company may utilize Customer Data for the purposes of statistical analysis and improvement of the Services so long as such data is not specifically linked to Customer.

8. Company Data Collection

- a. The Services provides the ability for Customer to enter certain information and data for use with the Services. This includes information about an organ, including a UNOS number. The Services does not restrict the information Users enter into open text fields available within the Services. Users shall not enter any non-intended information into such open text fields, including any information that may be deemed Protected Health Information (PHI), personal data or personal information (as defined under applicable privacy laws), or other confidential or sensitive information. Customer acknowledges and agrees Customer shall be solely responsible for the data and information entered by Users into the Services.



Privacy Notice

- b. Company generally collects only minimal personal data as a result of provision of the Services. This data includes the name and email address of Customer personnel interacting with Company relating to the Services. Company does not receive access to PHI or email contact lists that Customer has created for Service alert notifications and so Company does not have access to Customer-provided PHI or personal information from these email lists, such as name, email address, or phone number.
- c. In addition, Company and its authorized Company Partner provider of the Services collect and process the geolocation information of the LifePort associated with the Services for the purposes of permitting tracking of the LifePort. To the extent personal data is collected and processed by Company under the Terms and Conditions, such personal data shall be processed in accordance with Company's Privacy Policy available at <https://www.organ-recovery.com/privacy-policy/> as in effect from time to time.
- d. In addition, Company may also collect data about the LifePort associated with the Services, including the LifePort serial number, errors, and data. For more information regarding Company's collection and processing of this information, please contact Company. Company is not responsible for Company Partner's collection and processing of information.
- e. Company is not responsible for the confidentiality and use of any geolocation information used to access the Services. Company authorizes use of geolocation to Customer and Users solely to allow for the tracking of the LifePort and related data, and this information may not be used for any other purpose. Customer, and not Company, is solely responsible for any use of such geolocation information for any other purpose. Unless explicitly authorized by Company in writing, Customer is not authorized to make the geolocation information available on any web site or other platform, or to otherwise reproduce, distribute, copy, store, use or sell the information for commercial gain. Use of geolocation information is non-assignable. Any access or use that is inconsistent with this EULA is unauthorized and strictly prohibited.

9. Aggregated Statistics

- a. Notwithstanding anything to the contrary in this EULA, Company may monitor Customer's use of the Services and collect and compile data and statistics about or from the LifePort and Customer's use of the Services ("**Aggregated Statistics**"). As between Company and Customer, all right, title, and interest in Aggregated Statistics, and all intellectual property rights therein, belong to and are retained solely by Company. Customer acknowledges that Company may compile Aggregated Statistics based on Customer Data input into the Services. Customer agrees that Company may (i) make Aggregated Statistics publicly available, and provide Aggregated Statistics to third parties, and (ii) use and permit the use of Aggregated Statistics; provided that in each case such Aggregated Statistics do not identify Customer or Customer's Confidential Information.

10. Backups

- a. Customer acknowledges and understands that Customer alone is responsible for making any backups and redundancies of data Customer requires, and that Company will not separately make or store backups of Customer data related to the Services.

11. Third Party Applications, Products and Services

- a. Company and the Services may utilize Third Party Applications or services, including implementation, customization and other consulting services related to customers' use of the Services.
- b. "**Third Party Applications**" means online applications and offline software products that are provided by third parties and interoperate with the Services.
- c. Company does not warrant any such Third Party Applications or services, whether or not



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such Third Party Applications are designated by Company as "certified," "approved", "recommended" or otherwise, or the Services are provided by a third party that is a member of a Service partner program.

- d. Company is not responsible for the availability or the quality, accuracy, integrity, fitness, safety, reliability, legality, or any other aspect of such Third Party Applications or services that Customer may use through the Services, or any descriptions, promises or other information related to the foregoing.

12. Suspension

- a. **Service Suspension.** Notwithstanding anything to the contrary in this EULA, Company may temporarily suspend Customer's and any User's access to any portion or all of the Services if: (i) Company reasonably determines that (A) there is a threat or attack on any Company intellectual property; (B) Customer's or any User's use of Company intellectual property disrupts or poses a security risk to Company intellectual property or to any other customer or vendor of Company; (C) Customer, or any User, is using Company intellectual property for fraudulent or illegal activities; (D) subject to applicable law, Customer has ceased to continue its business in the ordinary course, made an assignment for the benefit of creditors or similar disposition of its assets, or become the subject of any bankruptcy, reorganization, liquidation, dissolution, or similar proceeding; or (E) Company's provision of the Services to Customer or any User is prohibited by applicable law; or (ii) any vendor of Company has suspended or terminated Company's access to or use of any third-party Service or products required to enable Customer to access the Services (any such suspension described in subclause (i) or (ii), a "Service Suspension"). Company shall use commercially reasonable efforts to provide written notice of any Service Suspension to Customer and to provide updates regarding resumption of access to the Services following any Service Suspension. Company shall use commercially reasonable efforts to resume providing access to the Services as soon as reasonably possible after the event giving rise to the Services Suspension is cured. Company will have no liability for any damage, liabilities, losses (including any loss of data or profits), or any other consequences that Customer or any User may incur as a result of a Service Suspension.
- b. **Suspension for Ongoing Harm.** Customer agrees that Company may suspend access to the Services if Company reasonably concludes that Customer's Service is being used to engage in denial of service attacks, spamming, any other illegal activity, or any activity that violates this EULA, and/or use of Customer's Service is causing imminent material harm, or immediate, material and ongoing harm to Company or others. In the extraordinary event that Company suspends Customer's access to the Services, Company will use commercially reasonable efforts to limit the suspension and resolve the issues causing the suspension of Service. Customer further agrees that Company shall not be liable to Customer nor to any third party for any suspension of the Services under such circumstances as described in this Section.