

# FollowMyHealth™ Patient Engagement Platform Terms

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The following terms apply to the FollowMyHealth Patient Engagement Platform (the “**Platform**”) and the related support services, interfaces (“**Interfaces**”) and Allscripts originated and provided content. These terms are hereby made a part of and amend the Agreement and shall govern in the event of any conflict with any other portions of the Agreement.

- 1. Applicable Solutions.** These FollowMyHealth Patient Engagement Platform terms apply to the following modules: (a) personal health record (the “**FMH PHR**”); (b) Achieve; (c) Telemedicine; and (d) Mobile patient experiences (“**MPE**”). Client may only use those portions of the Platform that are expressly purchased in a Client Order. The Platform is “Software-as-a-Service” licensed on a subscription basis.
- 2. Authorized Use.**
  - a. **Authorized Use.** During the Platform Subscription Term (defined below) and if purchased in a Client Order, Allscripts hereby grants to Client a limited, non-exclusive, non-sublicensable, and non-transferrable right to access and use the functionality of the Platform within the authorized scope and use metric set forth in a Client Order.
- 3. Services; Interfaces.** Allscripts agrees to provide the following for purchased Platform items:
  - a. **Implementation and Other Services.** Allscripts will provide Client with Allscripts’ standard implementation services and other services in accordance with Allscripts standard implementation policies and assumptions.
  - b. **Interfaces.** Allscripts will provide Interfaces that substantially conform to the functionality and features described in the Documentation.
  - c. **Support.** If Client has purchased and is current on the fees for the support services described below, Allscripts will provide support services during a Subscription Term for each purchased service as follows:
    - i. *Client Support Services.* Allscripts will provide support services for the Platform in accordance with the Support Manual located at <https://www.allscripts.com/legal/>.
    - ii. *Optional Patient Support Services.* If purchased, Allscripts will provide its standard patient support services for the Patient Portal (“**Patient Support**”) in accordance with any specific terms outlined in an ordering document.
    - iii. *Interface Support Services.* Allscripts will implement for Client generally available updates to or replacements of the Interface(s) required to maintain Interface Functionality if Client’s computer system infrastructure changes in a manner that may adversely impact the operation of any Interface(s).
- 4. Client Obligations.**
  - a. Client will be given administrative access to the Platform to manage patient invitations and other features. Client is responsible for (i) the security of any accounts and passwords, (ii) the access to and use of the Platform by its users and patients, including properly authorizing, maintaining, and terminating connectivity for authorized users and patients, (iii) verifying contact information for patients before sending invitations to ensure that only (a) sending invitations to the correct individual patient; and (b) not mismatching to a different individual patient, and (iiii) verifying that medical and demographic information is entered into the correct patient record and if the information is entered in error, following the appropriate workflow to indicate that the information was entered in error. . Allscripts is not responsible for any misuse of any administrative, patient, or user account information that is associated with Client or its patients.
  - b. Client will not and will ensure that all of its personnel will not: (i) upload to or transmit through the Platform any defamatory, indecent, obscene, harassing, violent or otherwise reasonably objectionable material, or any material that is copyrightable subject matter or subject to trade secret protection, without permission from the copyright or trade secret owner(s); (ii) use the Platform to violate the legal rights (including the rights of publicity and privacy) of others or to violate any laws or regulations; (iii) intercept or attempt to intercept messages not intended for it; (iv) misrepresent an affiliation with any person or organization; (v) upload or transmit files that contain a virus or corrupted data; (vi) post “spam”, transmit chain letters or engage in other similar activities; (vii) advocate illegal activity or discuss an intent to commit an illegal act; (viii) take any action or inaction that conflicts with the Terms of Use or Privacy Policy or that encourages, assists, or enables a patient to violate the Terms of Use or Privacy Policy; (ix) connect to the Platform other than by the Interfaces provided by Allscripts; or (x) decompile, reverse engineer, or grant any title, interest, lien, or option in or to the Platform; or (xi) remove, alter, add any IP or other notice except for the co-branding expressly authorized by Allscripts hereunder.

- c. Client will not introduce any script or other software to the Platform unless such software and its installation have been approved by Allscripts in advance. Client will provide Allscripts all reasonably requested or required support and assistance in connection with the performance of any services by Allscripts hereunder.
- d. Client controls which of its patients are invited to connect to Client through the Platform and interface with Client's licensed EHR. Client is solely responsible for verifying the identity of the patients associated with the contact information utilized to invite patients to use the Platform.

**5. Personal Health Record.** The FMH PHR is a "Personal Health Record" (as defined in 16 C.F.R. § 318) and therefore Allscripts enters into separate terms of use agreements with and obtains specific authorization from each Client patient for the release of information from Client to Allscripts to populate the FMH PHR. As such:

- a. As a vendor of Personal Health Records that provides services on behalf of Covered Entities (as defined in HIPAA) and that maintains that same Personal Health Record on behalf of patients, Allscripts is subject to the breach notification requirements of 45 C.F.R. § 164.410 administered by the Office of Civil Rights and 16 C.F.R. § 318 administered by the Federal Trade Commission
- b. Allscripts is a Business Associate under HIPAA when it offers the FMH PHR on behalf of Client, however, such Business Associate activities do not apply to the information when it is contained within the FMH PHR, as such information is being maintained on behalf of the patient;
- c. In the event of any security breach or suspected security breach of the FMH PHR attributable solely to Allscripts which may impact copies of patient data maintained by Allscripts, as between Allscripts and Client, Allscripts shall be solely responsible for sending out any security breach notifications required by 16 C.F.R. § 318. Nothing in this paragraph grants Allscripts or any patient any rights to, or makes Allscripts responsible for, copies of records or data maintained in Client's electronic medical record system or for any privacy and/or security breach or suspected privacy and/or security breaches attributable to Client; and
- d. In the event of a privacy and/or security breach or suspected privacy and/or security breaches attributable to Client which may impact copies of patient data maintained by Allscripts in the FMH PHR and/or breach or violation of Section 4 by Client or its users, as between Allscripts and Client, Client must: 1) be solely responsible for sending any privacy and/or security breach notifications and 2) pay Allscripts at its then-current rates for any services that Allscripts deems necessary to perform to correct, mitigate, and/or remediate Client's incident or violation.
- e. Client will have the opportunity to determine which medical records may be transmitted by Client to any given patient through the FMH PHR. However, once Client issues the invitation – or agrees to permit a patient who registered through the FMH PHR separately or independently to connect to Client's records – Client acknowledges and agrees that each patient retains the authority regarding whether to participate in FMH and the level of communication the FMH PHR will support between the patient and Client's providers.

**6. Medical Judgment.** Client acknowledges that Client is solely responsible for all prescription orders, medicine practiced or advice/information shared by Client or its providers, The Platform and any content therein is not a substitute for the professional judgment of healthcare providers in diagnosing and treating patients and the Platform is not designed for use in medical emergencies. Allscripts does not provide medical advice or medical or diagnosis services, and Allscripts is not responsible for the accuracy, timeliness, completeness, appropriateness or helpfulness of any content, including the accuracy in prescriptions, the medications or the manner in which they are used or for any advice given by medical providers. Reliance by Client and Client's patients upon information and content obtained through the Platform is solely at the risk of Client and Client's users.

**7. Use of Client Trademarks and Materials.** As mutually agreed upon by the parties, Allscripts use Client's trademarks and other marks together with Allscripts' marks to co-brand certain components of the Platform for Client's use. Client hereby grants to Allscripts a worldwide, fully paid-up, royalty free, and sublicenseable license to copy, modify, and otherwise use Client's marks and other applicable materials and information in connection with co-branding such components and otherwise performing Allscripts' obligations during the Platform Subscription Term.