

## **imagn Billing Terms and Conditions**

### **1. Terms of Accepting Agreement**

By clicking the "Accept Terms and Conditions" displayed as a part of the online registration process or by otherwise signing up for an account, accessing or using the Service, you agree to be bound by the following terms and conditions in this legal agreement (the "Agreement") between you and any organization you represent (collectively, "you" or the "Customer") and imagn® ("imagn", "imagn Billing" or "we"), governing your use of imagn's online service and any related software you may install on your computer (the "Service"), imagn's Privacy Policy, Terms of Use, and any other legal notices, conditions or guidelines provided by imagn related to the use of the Service, which may be posted and updated from time to time. The Privacy Policy, Terms of Use, and all other guidelines or notices are hereby incorporated into this Agreement by this reference. In the event of any inconsistency between any term or condition in the comprising documents, these terms and conditions will control. If you are entering into this Agreement, you represent that you are authorized to accept the terms of this Agreement on behalf of yourself or the organization you represent. If you do not have such authority, or if you do not agree with the terms and conditions of this Agreement, you must not click on the "Accept Terms and Conditions" and must close the electronic contract, and you may not use the Service.

### **2. Services**

imagn Billing shall prepare, process and submit on behalf of customer for benefit verification, gap exception, pre-authorization, claims, and appeals for third party payment to commercial and government payers for services provided by customer to its patients. Without limiting the foregoing, imagn Billing shall submit claims on behalf of and in the name of customer to any and all health insurance plans which the customer chooses to bill. All such claims shall be submitted by the billing company in the customer's name and utilizing provider numbers assigned to the customer by the respective third-party payer. Claims will be submitted electronically or by means of paper submission as directed by the third-party payer. Customer hereby expressly authorizes imagn Billing to submit cases and inquiries on its behalf in accordance with this agreement. Payment of all claims filed on behalf of customer shall be directed to such accounts to which customer has sole control as may be required by Medicare and other third-party payers. Customer understands that a quote of benefits and/or pre-authorization requested and obtained by imagn Solutions does not guarantee payment or verify eligibility. Payment of benefits are subject to all terms, conditions, limitations, and exclusions of the member's contract at time of service.

### **3. Customer Responsibility**

Customer shall be responsible for ensuring that imagn Billing is provided with all necessary records and information from which to submit the case and shall reasonably cooperate with imagn Billing as may be necessary to permit imagn Billing to perform its duties hereunder. Failure to prove or provide medical necessity or any other required documentation that results in a denial will result in a closed case and no further action will be taken by imagn Billing. imagn Billing is not responsible for appealing such cases without a request from the Customer, at which time an additional fee may be assessed to reopen the case. Customers shall also be responsible for ensuring the accuracy and completeness of all coding

associated with claims and for ensuring the medical necessity and appropriateness of the services for which a bill will be submitted. imagn Billing will submit only and exactly the information given by the Customer to insurances. imagn Billing shall have no liability or responsibility whatsoever, legally and lawfully, regarding the accuracy or completeness of the coding or determinations regarding medical necessity.

#### 4. Customer Acknowledgement

Customer acknowledges and agrees as follows:

a. The ultimate responsibility for all cases submitted is that of the customer and customer shall remain responsible for subsequent correction, adjustment, or repayment of any payment regardless of reason or cause.

b. The submission of false, fraudulent or misleading data, information, or statements to the government and/or commercial third-party payers in connection with health insurance coding, billing and claims submission is a crime and can subject the violator to imprisonment and fines. customer shall indemnify and hold imagn Billing and its owners, directors, and employees harmless from and against any claims submitted on behalf of and in the name of the customer for which customer has provided imagn Billing false, fraudulent, incomplete, misleading, or otherwise incorrect information or data, including but not limited to, the coding of claims pursuant to Section 2 above.

c. Customer shall be responsible for maintaining all original source documents to enable it to verify and document the claims submitted to their party payers (whether such claims are submitted in paper or electronic form).

#### 5. Compliance with Laws and Regulations

It is expressly understood and agreed that both parties, in performance with their duties hereunder, will comply with all applicable laws and regulations, including but not limited to, laws and regulations (and government interpretations thereof) relating to billing, coding, and submission of claims to the Medicare and Medicaid Programs.

#### 6. Limited liability

In no event shall imagn, its parent, subsidiaries, officers, directors, directors, employees, licensors, partners or affiliates be liable for, even if imagn has been advised or warned of the possibility of such damages: (I) Any indirect, incidental, unforeseeable, special, punitive, or consequential damages; (II) Any damages for loss of profits, loss of earnings, or loss of business opportunities; (III) Costs of procurement or substitute goods or services; (IV) Loss of data or other of your content resulting from delays, non-deliveries, misdeliveries, security breaches to, service interruptions to, or errors or omissions respecting the service or the operation of imagn or its licensors' networks; or (V) Losses or liabilities due in whole or in part to inadvertent, premature or unauthorized release or disclosure of information by you via imagn or its licensors, partners and affiliates to you or any third parties in any circumstance arising out of or relating to this agreement or the service is limited to the amount of fees you pay to imagn in the twelve (12) months prior to the action giving rise to liability. All information provided by

imagn, including but not limited to; medical information, scoring, automated recommendations, informed consent ideas, patient education materials, product recommendations, and any other pre-programmed sleep and medical information is for informational purposes only. This information should not be considered complete and is not intended to give medical advice. imagn does not create or maintain a doctor/patient relationship. It is the sole responsibility of the provider to make assessments, retain clinical notes and findings, educate and provide informed consents and make all medical and dental decisions on behalf of the patient. The providers agree to indemnify and hold imagn harmless of any claims by the patients of the provider. The foregoing limitations will apply even if imagn has been notified of the possibility of such damages and notwithstanding the failure of the essential purpose of any limited remedy. No action or claim relating to this Agreement shall be made against imagn or its parent, Licensors, subsidiaries, officers, directors, employees, partners or affiliates by you or on your behalf more than TWELVE (12) months after the event giving rise to such action or claim.

#### 7. Indemnity

You agree to indemnify and hold imagn (including its parent, subsidiaries, affiliates, officers, directors, agents, and employees, contractors, subcontractors, licensors, and partners) harmless from any claim, demand, judgment, liability, damage, cost and expense, including reasonable attorneys' fees, made by any third party due to or arising out of your breach or alleged breach of this Agreement or the documents it incorporates by reference, or your violation of any applicable law, rule or regulation or the rights of a third party (including without limitation any negligent, willful, tortious or illegal conduct by you affecting a third party).

#### 8. Term

Imagn Billing has no monthly minimum or recurring service charges. No contract term is applicable; however, you understand and agree that in the event you choose to no longer utilize imagn Billing services, you will no longer have access to imagn Billing software, and any and all pending cases will be completed by imagn Billing and charged to the credit card on file. Once a case has been submitted to imagn Billing, you are financially responsible for the appropriate fee as listed in this agreement. It is the customer's responsibility to ensure that those with access to the software have permission to create and submit cases, ultimately generating an invoice. No cases or charges can be disputed due to the users change in status or misuse of login credentials. imagn Billing holds no responsibility or obligation to monitor specific user accounts or user activity, this falls entirely on the Customer.

#### 9. Termination

If for any reason breach of the imagn Billing Agreement occurs, there will be an automatic termination of imagn Billing services.

#### 10. Exclusivity

Customer agrees that throughout the term of this Agreement, imagn Billing will be the sole and exclusive provider of claims processing services to customer, and customer will not hire or engage any other claims processing or similar company.

## 11. Billing and Pricing

No refunds will be available for fees the Customer has paid. imagn will automatically and bill the provided credit card each month for monthly per occurrence fees, or in an otherwise mutually agreed upon manner. You expressly agree that imagn is authorized to charge you (i) a monthly fee for any applicable Service billed on a monthly basis automatically, (ii) any other fees for the Service you may purchase, and (iii) any applicable taxes in connection with your use of the Service to the payment card you provide and to reimburse us for all collection costs and interest for any overdue amounts. If the payment card provided expires and a new payment card information is not provided, or a cancellation request is not made in writing, 30 days prior to the requested termination date, you authorize imagn Billing to continue billing you for all fees associated with the remaining duration of your service agreement and you agree to remain responsible for any uncollected fees. If the provided card expires or imagn is unable to collect the fees for any reason, you will immediately lose access to your imagn account. You have 30 days to provide a new valid credit or debit card for us to charge. If you do not provide new card information within 30 days, imagn will only reinstate your account once the amount owed, interest has been paid, which will accrue at a rate of 1.5% per month. As consideration for the services performed by the imagn Billing hereunder, customer shall pay imagn billing thirty five dollars (\$35.00) per verification of benefit, forty dollars (\$40.00) per gap exception *only* request (separate from pre-authorization cases), forty dollars (\$40.00) per pre-authorization (includes gap exception request), 8% of total allowed claim amount, and sixty dollars (\$60.00) for additional, high-level appeals and denials (those considered fee specific, lacking medical necessity, or policy exclusions), and/or cases with previous submissions (submitted by yourself or another 3rd party billing company). Upon request and prior to monthly invoicing, an explanation of benefit (EOB) may be requested from imagn Billing for your claims. You are responsible for providing imagn Billing a copy of the EOB within 10 business days. If the EOB has not been provided in a timely manner (within 10 days or the close of the monthly billing cycle) imagn Billing will charge 8% of the total billed amount of the claim, rather than the allowed amount. On a monthly basis, imagn billing shall bill the provided credit card on file for the previous monthly submission charges. Fees are subject to change at any time, without further, written notice or change to terms and conditions. imagn billing will notify Customers prior to any fee changes. Customer shall pay the full amount of the invoice to imagn Billing. a. Invoices not paid in full within ten (10) days will be subject to services charges, equal to 18% APR. b. Services may be temporarily suspended by imagn Billing without notification for any invoice which is more than thirty (10) days from the date of invoice. Should services be suspended, imagn Billing will only re-establish service when a valid credit card is provided for processing of all charges and all previous invoices are paid in full.

## 12. Credit Card Authorization

By submitting your credit/debit card ("Bank Card") data to imagn, you authorize imagn in its complete discretion to submit a financial transaction(s) to your issuing bank for settlement per the above contract. You agree that once imagn has approved or declined your transaction, imagn has fully performed under the terms of this Agreement. Per this Agreement, you agree to indemnify and hold imagn harmless from any losses or damages that you suffer as a result of a recurring charge. imagn may be contacted at: (855) 534-1433. If you think that there is an error on your account, including an incorrect amount or

unauthorized transaction, you agree to contact imagn prior to the next billing cycle. Upon proper notification, imagn, in its sole discretion may issue a credit to your Bank Card.

### 13. Access to Books and Records

To the extent this Agreement is subject to Medicare Law regarding access to books and records, until the expiration of four (4) years after the furnishing of the services provided under this Agreement, imagn Billing will make available to the Secretary of the U.S. Department of Health and Human Services, and the U.S. Comptroller General, and their representatives, this Agreement and all books, documents, and records necessary to certify the nature and extent of the costs of those services. This clause shall apply solely to the extent that Section 1861 (V)(1)(1) of the Social Security Act applies to this Agreement.

### 14. HIPAA and Laws

In accordance with the provisions of the Health Insurance Portability and Accountability Act of 1996, and the regulations promulgated thereunder, including the Privacy Rule and Security, as amended (“HIPAA”), you agree to follow and be responsible for the following (all undefined terms in Sections 18 and 19 have their meaning defined by the HIPAA regulations):

- a. Ensuring that your use of the Services complies with applicable law, including but not limited to laws relating to maintenance of privacy, security, and confidentiality of patient and other health information.
- b. Implement and maintain appropriate administrative, physical and technical safeguards to protect information within the Services.
- c. Such safeguards must comply with federal, state, and local requirements, including the Privacy Rule and the Security Rule.
- d. Maintain appropriate security with regard to all personnel, systems, and administrative processes used by you or members of your workforce to transmit, store and process electronic health information through the use of the Services.
- e. By using the Service, you consent to the terms of the Business Associate Agreement set forth in the imagn terms and conditions, and you agree to protect any information received through such communication services in accordance with the terms of such business associate agreement.

### 15. Business Associate Agreement (“BAA”)

This Business Associate Agreement (this “**BAA**”) is entered into by and between imagn, Inc. (“**imagn**”) and you (“**Health Care Provider**”) who entered into the Agreement for the Service. This BAA applies with respect to any and all Protected Health Information (PHI) that may be collected, accessed, used, processed or disclosed pursuant to imagn’s performance and Health Care Provider’s receipt of services under the Agreement.

Pursuant to the Health Insurance Portability and Accountability Act of 1996 (“**HIPAA**”), as updated and amended by Subtitle D of the Health Information Technology for Economic and Clinical Health Act (the “**HITECH Act**”), imagn may from time to time act as a business associate in the performance of services for Health Care Provider under the Agreement. In such event, the Health Care Provider is a covered

entity. Pursuant to this BAA, imagn and Health Care Provider agree to access, use, process and disclose any such PHI in compliance with the requirements of HIPAA and the HITECH Act.

By accepting the terms of the Agreement or by using any service made available under the terms of the Agreement, Health Care Provider accepts the term and conditions of this BAA. Please note that imagn provides this BAA sample included in these terms and conditions but that it is the responsibility of each individual practice to obtain a custom, signed copy between imagn and the practice, if the practice chooses to do so. imagn reserves the right, at our sole discretion, to change this BAA from time to time. Health Care Provider's continued use of the services provided under the Agreement after any such change takes effect will be deemed to constitute Health Care Provider's acceptance of and agreement to the revisions to this Agreement.

#### 16. Specially Protected Information

imagn applies the standards of the Privacy Rule in permitting access to the Service.

- a. You acknowledge that other federal and state laws impose additional restrictions on the use and disclosure of certain types of health information, or health information pertaining to certain classes of individuals.
- b. You agree that you are solely responsible for ensuring that personal health information is subject to the restrictions of the Privacy Rule and applicable law. In particular, you will:
- c. Not make available to other users through the Service any information in violation of any restriction on use or disclosure (whether arising from your agreement with such users or under law);
- d. Obtain all necessary consents, authorizations or releases from individuals required for making their personal health information available to imagn; and
- e. Include such statements (if any) in your notice of privacy practices as may be required.

You are responsible for determining if the Service meets your compliance standards.

imagn reserves the right to modify and change the terms of this Agreement from time to time, at its sole discretion; and your continued use of the imagn Service or products constitutes your acceptance of such modified terms.