

**END USER SERVICES AGREEMENT**

*Modified last on [date]*

**PLEASE READ THIS AGREEMENT AND ANY CORRESPONDING ORDER CAREFULLY BEFORE ACCESSING OR USING THE SERVICES.**

THIS END USER SERVICES EUSA (“EUSA”) CONTAINS THE TERMS AND CONDITIONS UNDER WHICH PLANSOURCE BENEFITS ADMINISTRATION, INC. (“PLANSOURCE”) AGREES TO PROVIDE HOSTED “SOFTWARE AS A SERVICE” FOR ITS PROPRIETARY ONLINE, WEB-BASED APPLICATIONS AND PLATFORM (“PLATFORM”) TO YOU (“END USER”), TOGETHER WITH, IF APPLICABLE, ALL OTHER IMPLEMENTATION SERVICES, CUSTOMIZATION, INTEGRATION, DATA IMPORT AND EXPORT, MONITORING, TECHNICAL SUPPORT, MAINTENANCE, AND TRAINING, (EACH SUCH SERVICE AND THE PLATFORM, INCLUDING RELATED DOCUMENTATION, TOGETHER ARE THE “SERVICES”). PLANSOURCE PROVIDES THE SERVICES SOLELY ON THE TERMS AND CONDITIONS OUTLINED IN THIS EUSA, AND ON THE CONDITION THAT END USER ACCEPTS AND COMPLIES WITH THEM. BY CLICKING THE “I ACCEPT” BUTTON BELOW, OR OTHERWISE ACCESSING AND USING THE SERVICES, END USER (i) ACCEPTS THIS EUSA AND AGREES THAT END USER IS LEGALLY BOUND BY ITS TERMS; AND (ii) REPRESENTS AND WARRANTS THAT END USER HAS THE RIGHT, POWER, AND AUTHORITY TO ENTER INTO THIS EUSA AND BIND END USER TO ITS TERMS. IF END USER DOES NOT AGREE TO THE TERMS OF THIS EUSA, END USER MUST NOT ACCESS OR USE THE SERVICES.

1. **Services.** This EUSA specifies the general terms and conditions under which PlanSource will provide the Services to End User on behalf of a PlanSource authorized reseller of the Services (“Reseller”). The terms of this EUSA apply to End User only regarding those Services that End User receives directly from PlanSource. The terms of any client agreement under which End User orders or receives any products and services, including any Services, from Reseller are between End User and Reseller. Such an agreement does not amend or modify any terms of this EUSA. Notwithstanding the foregoing, End User is responsible and liable for all uses of the Services through access to it provided by End User, directly or indirectly. Specifically, and without limiting the generality of the foregoing, End User is responsible and liable for all actions and failures to take necessary actions concerning the Services by its users or by any other person or entity to whom End User may provide access to or use of the Services, whether such access or use is permitted by or in violation of this Agreement.
2. **Restrictions and Responsibilities.**
  - a. End User will not, and will not permit or assist any third party to: (i) reverse engineer, decompile, disassemble or otherwise attempt to discover the source code, object code or underlying structure, ideas or algorithms of the Services, the Platform, or any other software, documentation or data related to the Services, or any portion thereof; (ii) modify, translate, or create derivative works based on the Services or Platform (or any part thereof), or copy, publicly display, sell, sublicense, loan, rent, lease, distribute, pledge, assign, or otherwise transfer or encumber rights to the Services or Platform; (iii) remove, obscure or alter any proprietary notices (including but not limited to trademark and copyright notices) on any of the Services or Platform (or any portion thereof); (iv) use the Services or Platform for any benchmarking purposes, or for application service provider, timesharing or service bureau purposes, or any purpose other than End User’s own internal use as contemplated by this EUSA; (v) use the Services or Platform other than in accordance with this EUSA and in compliance with all applicable documentation and applicable laws and regulations (including but not limited to any applicable privacy, data protection and intellectual property laws); (vi) take any action that imposes, or may impose an unreasonable or disproportionately large load on PlanSource’s infrastructure as determined by PlanSource, in its sole discretion, or otherwise interfere with the proper working of the Services, including conducting any load or penetration testing on the Services; (vii) upload invalid data, viruses, worms, or other software agents through the Services; or (viii) disable or bypass the measures that PlanSource may use to prevent or restrict access to the Services or use the Services or Platform in excess of service capacity limits or usage restrictions set in this EUSA or otherwise determined by PlanSource. End User acknowledges that the Services may include features to prevent use after the applicable term or use inconsistent herewith. End User will not make the Services or any part thereof available to any third party, including any third party who provides products or services similar to the Services, without first obtaining PlanSource’s express written consent.
  - b. The successful implementation and ongoing use of the Services are contingent upon End User fulfilling its responsibilities in any applicable Service exhibit attached to this EUSA or the Client EUSA. PlanSource will not be liable for any delays or failure to provide the Services caused by End User’s failure to fulfill such responsibilities or otherwise comply with any requirements outlined in any Service exhibit.
  - c. End User will cooperate with PlanSource in connection with the performance of this EUSA by making available such personnel and information as may be reasonably required and taking such other actions as PlanSource may reasonably request.

- d. End User will also cooperate with PlanSource in establishing a password or other procedures for verifying that only designated employees and agents of End User have access to any administrative functions of the Services. End User will be responsible for maintaining the security of its account, passwords (including but not limited to administrative and user passwords) and files, and for all uses of End User's account.

### 3. **End User Data.**

- a. End User will be solely responsible for the accuracy, quality, content, and legality of any data, information, or material originated by End User that End User submits, collects, or provides to PlanSource in the course of using the Services ("**End User Data**"). PlanSource is under no obligation to review, edit, censor, control, or question the completeness or accuracy of any End User Data. PlanSource will not be responsible for any losses or expenses that arise from End User's submission of incorrect, incomplete, or untimely End User Data. PlanSource, in its sole discretion, may charge a fee to take corrective action resulting from End User's incorrect, incomplete, or untimely submission of End User Data.
- b. Each party shall apply reasonable technical, organizational, and administrative security measures, as appropriate relative to the Services, to keep End User Data protected per industry standards. Service interaction with End User Data varies depending on the nature of the Service. End User will at all times retain a current copy of End User Data outside the Services for backup and archival purposes. If PlanSource reasonably believes an issue with the Services may be attributable to End User Data, End User shall cooperate with PlanSource to identify the source of and to resolve the issue. End User will comply with all intellectual property laws and obligations related to the End User Data, as well as all legal duties applicable to End User by using the Services, including providing all required information and notices and obtaining all required consents from its employees, consultants, and agents, as applicable. This EUSA states PlanSource's sole obligations concerning the care and maintenance of End User Data.
- c. PlanSource will have no obligation to maintain or determine any legally required participant or beneficiary documents, whether mandated by the Employee Retirement Income Security Act of 1974 and regulations thereunder, as amended ("**ERISA**") or other applicable law or regulation. Except to the extent PlanSource is required to maintain documents in its provision of the Services, End User or its insurance carrier will, as mandated by applicable law or agreement, be responsible for maintaining required documents regarding employee eligibility for insurance coverage. PlanSource will not be liable for any discrepancies between the End User Data maintained in the Platform or otherwise in PlanSource's possession or control and the information maintained by End User or its insurance carrier.
- d. End User may download its End User Data in a file in PlanSource's standard format at any time during the term of this EUSA. PlanSource has no obligation to maintain End User Data following expiration or termination of this EUSA or the affected Services.
- e. End User agrees that PlanSource may use End User Data on a historical, aggregated, and de-identified basis (collectively, "**Usage Data**") in compliance with applicable laws and this EUSA to provide the Services and for any commercial purposes, including the preparation and distribution of benchmarking, research, and analytical materials. Usage Data will not identify End User as the source of any specific data, pattern, or finding, nor shall it include any personally identifiable information (PII) or protected health information (PHI) of any individual users of the Services. PlanSource will maintain appropriate security measures for all Usage Data under the terms and conditions of this EUSA. PlanSource will be the sole and exclusive owner of all right, title, and interest to Usage Data.

4. **Third Party Services.** End User acknowledges and agrees that the Services operate on or with or using application programming interfaces (APIs) or other services operated or provided by third parties ("**Third Party Services**"). PlanSource is not responsible for the operation of any Third Party Services nor the availability or operation of the Services to the extent such availability and operation is dependent upon Third Party Services. End User is solely responsible for procuring all rights necessary for it to access Third Party Services and comply with any applicable terms or conditions thereof. PlanSource does not make any representations or warranties concerning Third Party Services or any third party providers. Any exchange of data or other interaction between End User and a third party provider is solely between End User and such third party provider and is governed by such third party's terms and conditions.

### 5. **Privacy and Data Protection; HIPAA and GDPR.**

- a. PlanSource will collect, use, and process End User Data under this EUSA, applicable law, and the terms of its Privacy Policy available at <https://plansource.com/privacy-policy>, which is incorporated into this EUSA by reference. The Privacy Policy is subject to change at PlanSource's discretion; however, policy changes will not result in a material reduction in the level of protection provided for End User Data.
- b. PlanSource will comply with all data privacy and security laws and regulations applicable to the Services, including the Health Insurance Portability and Accountability Act of 1996, and regulations thereunder ("**HIPAA**"), and its implementing

regulation, the Standards of Privacy of Individually Identifiable Health Information and the Health Information Technology for Economic and Clinical Health Act (“HITECH”) and the EU General Data Protection Regulation (“GDPR”).

- c. To the extent that PlanSource receives or has access to PHI, PlanSource will treat, hold, protect and return such information under the terms of its HIPAA Business Associate Agreement available at [http://plansource.com/collateral/HIPAA\\_BAA.PDF](http://plansource.com/collateral/HIPAA_BAA.PDF), which is incorporated into this EUSA by reference.

## 6. ERISA.

- a. PlanSource may perform certain administrative services under this EUSA for End User’s group employee benefits plan(s) (“Plan”). These services do not include or imply any discretionary authority by PlanSource over the operation of the Plan that would deem PlanSource to be the “plan administrator,” “plan sponsor,” or other “fiduciary” of the Plan as defined under ERISA. To the extent that the services require PlanSource to assist the Plan administrator (“Plan Administrator”), the performance of such services will consist of only those ministerial functions enumerated in the Department of Labor Regulations § 2509.75-8, D-2 (relating to report preparation required by governmental agencies, employee communications material, recommendations regarding plan administration). PlanSource will perform these services within the framework of policies, interpretations, rules, practices, and procedures established by End User and Plan Administrator. All PlanSource activities concerning or on behalf of the Plan are subject to review, modification, or reversal by Plan Administrator or any other fiduciary authorized by the Plan. PlanSource will have no discretionary or final authority to control or manage the Plan’s administration, including managing or investing Plan assets.
- b. PlanSource has no responsibility, risk, liability, or obligation for the funding of the Plan or the payment of any benefits of the Plan or other liabilities, whether resulting from the ongoing operations of the Plan, termination of the Plan, a change by the Plan in its funding method from or to full or partial insurance, or the nonpayment by an insurer of amounts due to the Plan or any Plan participant. Such responsibility, risk, liability, and obligation at all times resides and remains solely with End User, the Plan, the Plan Administrator, or other persons designated by the Plan.

7. **Proprietary Rights.** End User acknowledges and agrees that the Services are provided under license, and not sold, to End User. End User does not acquire any ownership interest in the Services under this EUSA, or any other rights to it other than to use the same in accordance with End User, and subject to all of the terms, conditions and restrictions under this EUSA. PlanSource (and its licensors and service providers) reserve and shall retain their full right, title, and interest in and to the Services and all Intellectual Property Rights arising out of or relating to the Services and Documentation, except as expressly granted to the End User in this EUSA. End User shall safeguard all Services from infringement, misappropriation, theft, misuse or unauthorized access. End User shall promptly notify PlanSource if End User becomes aware of any infringement of PlanSource’s Intellectual Property Rights in the Services and fully cooperate with PlanSource in any legal action taken by PlanSource to enforce its Intellectual Property Rights. “Intellectual Property Rights” means any and all intellectual property or proprietary rights throughout the world, including all: (i) patent rights (including patent applications and disclosures); (ii) registered and unregistered copyrights (including rights in software, including in source code and object code); (iii) registered and unregistered trademark rights; and (iv) trade secret rights.

8. **Confidentiality.** Each party agrees to use commercially reasonable efforts to maintain the confidentiality of any confidential information of the other party that it obtains under this EUSA consistent with the efforts such party uses to protect its own confidential and trade secret information of like importance and shall take all reasonable steps to ensure that such confidential information is not disclosed or distributed by its employees or agents to third parties not subject in writing to an agreement to protect such confidential information. Each party agrees that the Platform and Services are confidential information of PlanSource.

9. **Term and Termination.** This EUSA and the rights and licenses granted hereunder are effective on the date End User first uses the Services and continues until terminated. PlanSource may terminate this EUSA at any time if End User fails to comply with any term hereof. End User may terminate this EUSA effective immediately upon written notice to PlanSource. Upon termination of this EUSA, any rights and licenses granted hereunder will terminate and End User must stop all use of the Services. All sections of this EUSA which by their nature should survive termination will survive termination, including, without limitation, accrued rights to payment, use restrictions and indemnity obligations, confidentiality obligations, warranty disclaimers, and limitations of liability.

10. **Disclaimer.** THE SERVICES ARE PROVIDED TO END USER “AS IS” AND WITH ALL FAULTS AND DEFECTS WITHOUT WARRANTY OF ANY KIND. TO THE MAXIMUM EXTENT PERMITTED UNDER APPLICABLE LAW, PLANSOURCE, ON ITS BEHALF AND ON BEHALF OF

ITS AFFILIATES AND ITS AND THEIR RESPECTIVE LICENSORS AND SERVICE PROVIDERS, EXPRESSLY DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, CONCERNING THE SERVICES, INCLUDING ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT, AND WARRANTIES THAT MAY ARISE OUT OF COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OR TRADE PRACTICE. PLANSOURCE PROVIDES NO WARRANTY OR UNDERTAKING, AND MAKES NO REPRESENTATION OF ANY KIND THAT THE SERVICES WILL MEET END USER'S REQUIREMENTS, ACHIEVE ANY INTENDED RESULTS, BE COMPATIBLE OR WORK WITH ANY OTHER SOFTWARE, APPLICATIONS, SYSTEMS OR SERVICES, OPERATE WITHOUT INTERRUPTION, MEET ANY PERFORMANCE OR RELIABILITY STANDARDS OR BE ERROR-FREE OR THAT ANY ERRORS OR DEFECTS CAN OR WILL BE CORRECTED.

11. **Limitation of Liability.** TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT WILL PLANSOURCE BE LIABLE FOR ANY EXEMPLARY, SPECIAL, INDIRECT, INCIDENTAL, PUNITIVE, EXEMPLARY OR CONSEQUENTIAL DAMAGES (INCLUDING LOSS OF USE, DATA, BUSINESS OR PROFITS) ARISING OUT OF THE SERVICES, THE PROVISION OF OR FAILURE TO PROVIDE SUPPORT OR OTHER SERVICES, INFORMATION, SOFTWARE, AND RELATED CONTENT THROUGH THE SERVICES OR OTHERWISE ARISING OUT OF END USER'S ACCESS TO AND USE OF THE SERVICES, OR OTHERWISE UNDER OR RELATING TO ANY PROVISION OF THIS EUSA, EVEN IF ADVISED OF THE POSSIBILITY OF THE DAMAGE. THE MAXIMUM TOTAL LIABILITY OF PLANSOURCE TO END USER UNDER THIS EUSA IS LIMITED TO DIRECT DAMAGES IN AN AMOUNT NOT TO EXCEED \$10,000.00. THIS REMEDY WILL BE END USER'S SOLE AND EXCLUSIVE REMEDY.

12. **Indemnification.**

- a. End User acknowledges that by entering into and performing its obligations under this EUSA, PlanSource does not assume and End User should not expose PlanSource to the business and operational risks associated with End User's business. Accordingly, End User shall indemnify and hold harmless PlanSource, its officers, directors, employees and Affiliates against all liabilities, obligations, losses, costs, damages, and other expenses, including reasonable attorneys' fees (collectively, "**Losses**") incurred by PlanSource that result from a third party claim to the extent such Loss arises from: (i) any material breach by End User of this EUSA; (ii) End User's use of the Services; (iii) a third party's use of the Services authorized or facilitated by End User; (iv) the inaccuracy or incompleteness of End User Data input into, or modified within the Services by End User; (v) a claim or allegation that the End User Data, or PlanSource's authorized use thereof, infringes a U.S. patent or copyright or misappropriates the Intellectual Property Rights of any third party; (vi) any violation of any law or regulation by End User, or any of its officers, directors, employees, contractors or agents; or (vii) or willful misconduct or gross negligence by End User or any of its employees, agents or contractors.
- b. PlanSource agrees to indemnify, hold harmless and defend End User from and against any Losses which arise or result from a claim that End User's use of the Services infringes or violates any copyright or patent. If PlanSource obtains final injunction against End User's use of the Services because of such infringement, or if in PlanSource's opinion the Services is likely to become the subject of a claim for such infringement, PlanSource shall, at its sole option and expense: (i) procure for End User the right to continue using the Services in the manner permitted hereunder; (ii) replace or modify the Services so that it becomes non-infringing, or (iii), if (i) and (ii) are not feasible, terminate this EUSA. The foregoing remedies shall be End User's sole and exclusive remedies in the event of a successful infringement claim. PlanSource shall have no liability to End User hereunder if any infringement is based upon End User's use of the Services in combination with any software not furnished by PlanSource, if the Services is used in a manner for which it is not designed or permitted, or if the infringement is based upon modifications of the Services by End User.
- c. The foregoing indemnification by each party hereto shall be subject to the following: (i) the indemnified party promptly notifies the other party in writing of the claim; (ii) the indemnifying party has sole control of the defense and all related settlement negotiations with respect to the claim, provided, however, that the indemnified party has the right, but not the obligation, to participate at its expense in the defense of any such claim or action through counsel of its own choosing; and (iii) the indemnified party cooperates fully to the extent necessary, and executes all documents necessary for the defense of such claim.

14. **Modifications and Updates.** PlanSource may on one or more occasions modify or update this EUSA. PlanSource will post notices of EUSA modifications or updates through links placed on the PlanSource website or login pages or provide notification by other means. Please review this EUSA periodically for modifications or updates. If End User uses the Services after PlanSource posts any modifications or updates, End User will be deemed as having accepted them. If End User does not agree to any modified or updated terms of the EUSA or changes to other PlanSource policies, End User should discontinue its use of the Services, and this will be End User's sole and exclusive remedy. If there is a conflict between this EUSA and the most current version of this EUSA posted on the PlanSource website, login pages, or otherwise provided to End User, the most current version will prevail.

15. **No Legal Advice.** The Services may provide information concerning potential legal issues, but it is not a substitute for legal advice from qualified counsel. At no time does PlanSource review information for legal sufficiency, draw legal conclusions, provide legal advice, opinions or recommendations about anyone's legal rights, remedies, defenses, options, selection of forms, or strategies. Use of the Services does not create any fiduciary relationship between End User and PlanSource. The accuracy of the Services is neither warranted nor guaranteed and End User uses the Services at its own risk. Documents created using the Services may require consultation with an attorney prior to execution or filing.
16. **Miscellaneous.** If any provision of this EUSA is found to be unenforceable or invalid, that provision will be limited or eliminated to the minimum extent necessary so that this EUSA will otherwise remain in full force and effect and enforceable. Except in connection with a sale of substantially all of its business (by merger, share or asset sale or otherwise), this EUSA is not assignable, transferable or sublicensable by End User except with PlanSource's prior written consent. PlanSource may freely transfer and assign any of its rights and obligations under this EUSA without consent. Each party agrees that this EUSA is the complete and exclusive statement of the mutual understanding of the parties and supersedes and cancels all previous written and oral EUSAs, communications and other understandings relating to the subject matter of this EUSA, and that all waivers and modifications must be in a writing signed by both parties, except as otherwise provided herein. No agency, partnership, joint venture, or employment is created as a result of this EUSA and End User does not have any authority of any kind to bind PlanSource in any respect whatsoever. In any action or proceeding to enforce rights under this EUSA, the prevailing party will be entitled to recover costs and attorneys' fees. All notices under this EUSA will be in writing and will be deemed to have been duly given when received, if personally delivered; when receipt is electronically confirmed, if transmitted by facsimile or e-mail; and upon receipt, if sent by certified or registered mail (return receipt requested), postage prepaid. PlanSource will not be liable for any loss resulting from a cause over which it does not have direct control. This EUSA will be governed by the laws of the State of Florida, without regard to its conflict of laws provisions. The state courts sitting in Orange County, Florida will have proper and exclusive jurisdiction and venue with respect to any disputes arising from or related to the subject matter of this EUSA, provided that without limiting PlanSource's right to seek injunctive or other equitable relief in court, PlanSource may elect (by written notice given prior filing a complaint or, in the case of the defendant, prior to answering a complaint) to resolve a dispute by mediation in Orange County, Florida, and End User hereby consents to such mediation and venue. Judgment upon the award so rendered may be entered in a court having jurisdiction or application may be made to such court for judicial acceptance of any award and an order of enforcement, as the case may be. End User agrees to participate in press announcements, case studies, trade shows, or other forms reasonably requested by PlanSource. PlanSource is permitted to disclose that End User is one of its End Users to any third-party or on its public website at its sole discretion.

## END USER LICENSE AGREEMENT

**IMPORTANT - READ CAREFULLY:** THIS END USER LICENSE AGREEMENT (“EULA”) IS A LEGAL AGREEMENT BETWEEN YOU (AS AN INDIVIDUAL OR LEGAL ENTITY) AND PLANSOURCE BENEFITS ADMINISTRATION, INC., ON BEHALF OF ITSELF AND ITS AFFILIATES (“PLANSOURCE”) FOR YOUR USE OF THE PLANSOURCE BENEFITS ADMINISTRATION AND PRIVATE EXCHANGE PLATFORMS, INCLUDING ASSOCIATED DOCUMENTATION, PRODUCTS, AND SERVICES (COLLECTIVELY, THE “PLANSOURCE PLATFORM”). UNLESS YOU HAVE A SEPARATE WRITTEN AGREEMENT WITH PLANSOURCE REGARDING YOUR USE OF THE PLANSOURCE PLATFORM, IN WHICH CASE THE TERMS OF THAT SEPARATE AGREEMENT WILL GOVERN, THIS EULA GOVERNS YOUR USE OF THE PLANSOURCE PLATFORM.

PLANSOURCE PROVIDES THE PLANSOURCE PLATFORM SOLELY ON THE TERMS AND CONDITIONS IN THIS EULA AND ON THE CONDITION THAT YOU ACCEPT AND COMPLY WITH THEM. BY CLICKING ON THE "I ACCEPT" BUTTON BELOW, OR IN ANY OTHER WAY ACCESSING OR USING THE PLANSOURCE PLATFORM, YOU ARE CONSENTING TO THE TERMS AND CONDITIONS OF THIS EULA. IF YOU ARE ENTERING INTO THIS EULA ON BEHALF OF YOUR COMPANY, YOUR ACCEPTANCE REPRESENTS THAT YOU HAVE THE AUTHORITY TO BIND THE COMPANY TO THIS EULA. **IF YOU DO NOT AGREE WITH THESE TERMS, OR IF YOU DO NOT HAVE THE AUTHORITY TO BIND YOUR COMPANY, DO NOT CLICK THE “I ACCEPT” BUTTON BELOW.**

1. **License Grant.** Subject to this EULA, PlanSource grants you a revocable, non-exclusive, non-transferable, non-sublicensable, limited license to use the PlanSource Platform internally to enter, modify, view, display, download, transmit, reproduce, and otherwise process End User Data (as defined below) and to perform other functions included within the PlanSource Platform.
2. **Open Source Software.** The PlanSource Platform may contain components licensed from third parties, including components subject to the terms and conditions of “open source” software licenses (“Open Source Software”). Open Source Software may be identified in the PlanSource Platform. To the extent required by any license accompanying the Open Source Software, the terms of that license will apply in lieu of the terms of this EULA for the Open Source Software, including any provisions governing access to source code, modification or reverse engineering.
3. **Restrictions.** You may not reverse engineer, decompile, or disassemble the PlanSource Platform or otherwise use all or part of the PlanSource Platform except as expressly permitted by this Agreement.
4. **Authorized User.** “Authorized User” means any of your current employees, administrators, service providers, or agents whom you authorize to access and use the PlanSource Platform under the terms and conditions of this Agreement; except that any administrators’ service providers’ or agents’ access and use of the PlanSource Platform will be limited to their provision of services to you. You are responsible for the acts and omissions of Authorized Users and any other person who accesses and uses the PlanSource Platform using any of your or Authorized Users’ access credentials.
5. **Ownership.** PlanSource retains all right, title and interest, including all Intellectual Property Rights (as defined below), in and to the PlanSource Platform and any additions, improvements, updates and modifications thereto. You receive no ownership interest in or to the PlanSource Platform under this Agreement. The PlanSource name, logo and all product and service names associated with the PlanSource Platform and PlanSource products and services are trademarks of PlanSource and its licensors and providers and PlanSource does not grant you any right or license to use them. “Intellectual Property Rights” means all intellectual property rights, proprietary rights, rights of publicity, rights of privacy, and all other legal rights protecting data, information or intangible property throughout the world, including, all copyrights, trademarks, service marks, trade secrets, patent rights, moral rights, and contract rights.
6. **End User Data.**
  - a. **Ownership.** “End User Data” means all necessary data, content, or information, in hard copy and electronic format, required by PlanSource to perform its duties under this EULA, and provided by or relating to your use of the PlanSource Platform. You retain ownership of any End User Data you provide to PlanSource under this EULA. End User Data is your Confidential Information and PlanSource will keep your information confidential in accordance with the terms of Section 7.



- b. **Reliance on End User Data.** PlanSource will assume that all End User Data you provide to PlanSource under this EULA is complete and accurate. PlanSource is under no duty to review, edit, censor, control or question the completeness or accuracy of any End User Data. PlanSource will not be responsible for any losses or expenses that arise because of your or Authorized User's submission of incorrect, incomplete, or untimely End User Data. PlanSource may charge a fee to take corrective action resulting from your submission of incorrect, inaccurate, or untimely End User Data.
  - c. **End User Data Exchange.** You authorize PlanSource to exchange End User Data with your payroll provider, service provider, insurance provider, insurance carrier, broker of record, auditor, legal counsel, administrator, or other agents or representatives of yours for any reason contemplated by this EULA and as permitted by law. You may revoke this authorization at any time by providing written notification to PlanSource.
  - d. **Beneficiary Documents.** PlanSource will have no obligation to maintain, or make any determination regarding, any legally required beneficiary documents, whether mandated by ERISA or other law or regulation. You or your insurance provider or carrier will, as mandated by applicable law or agreement, be responsible for maintaining required documents regarding employee eligibility for insurance coverage. PlanSource will not be liable for discrepancies between the beneficiary data maintained in the PlanSource Platform and the information maintained by you or your insurance provider or carrier.
  - e. **Retention of End User Data.** Except as required to perform its duties and obligations under this Agreement, or as required by law, PlanSource has no duty or liability regarding the retention of End User Data for any reason, including your compliance with federal, state, administrative, or local records retention laws or regulations.
7. **Confidentiality.** The parties will use commercially reasonable efforts to maintain the confidentiality of any confidential information of the other party it obtains under this EULA and will take all reasonable steps to ensure that the confidential information is not disclosed or distributed by its employees or agents to third parties not subject in writing to an agreement to protect the confidential information. The PlanSource Platform is confidential information of PlanSource.
8. **Subcontractors.** PlanSource may use subcontractors, including offshore subcontractors, in the performance of its duties and obligations under this EULA. PlanSource will ensure all subcontractors comply with the obligations and restrictions of this EULA, including the obligations of confidentiality in Section 7 and the BAA (as defined below) entered into between you and PlanSource, if any. PlanSource is solely responsible for the performance of its subcontractors under this EULA.
9. **Term and Termination.** Without prejudice to any other rights, PlanSource may terminate this EULA if you fail to comply with any provision of this EULA. Upon termination of this EULA, you will promptly return all PlanSource confidential information in your possession or control to PlanSource, and if applicable, pay in full all service fees due and payable by PlanSource.
10. **Disclaimer of Warranties.** To the maximum extent permitted by applicable law, PlanSource provides the PlanSource Platform and related products and services AS IS AND WITH ALL FAULTS, and disclaims all other warranties and conditions, whether express, implied or statutory, including any implied warranties, duties or conditions of merchantability, of fitness for a particular purpose, of reliability or availability, of accuracy or completeness of responses, of results, of workmanlike effort, of lack of viruses, and of lack of negligence, all with regard to the PlanSource Platform, and the provision of or failure to provide support or other products, services, information, software, and related content through the PlanSource Platform or otherwise arising out of the use of the PlanSource Platform. IN ADDITION, THERE IS NO WARRANTY OR CONDITION OF TITLE, QUIET ENJOYMENT, QUIET POSSESSION, OR NON-INFRINGEMENT WITH REGARD TO THE PLANSOURCE PLATFORM.
11. **Limitation of Liability.** TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT WILL PLANSOURCE BE LIABLE FOR ANY EXEMPLARY, SPECIAL, INDIRECT, INCIDENTAL, PUNITIVE, EXEMPLARY OR CONSEQUENTIAL DAMAGES (INCLUDING LOSS OF USE, DATA, BUSINESS OR PROFITS) ARISING OUT OF THE PLANSOURCE PLATFORM, THE PROVISION OF OR FAILURE TO PROVIDE SUPPORT OR OTHER SERVICES, INFORMATION, SOFTWARE, AND RELATED CONTENT THROUGH THE PLANSOURCE PLATFORM OR OTHERWISE ARISING OUT OF THE USE OF THE PLANSOURCE PLATFORM, OR OTHERWISE UNDER OR RELATING TO ANY PROVISION OF THIS EULA, EVEN IF ADVISED OF THE POSSIBILITY OF THE DAMAGE. THE MAXIMUM TOTAL LIABILITY OF PLANSOURCE TO YOU WILL BE LIMITED TO DIRECT DAMAGES IN AN AMOUNT NOT TO EXCEED \$10,000.00. THIS REMEDY WILL BE YOUR SOLE AND EXCLUSIVE REMEDY.

12. **Indemnification.** You will indemnify and hold harmless PlanSource and its affiliates, officers, directors, employees, and agents, from and against any claim, cost or liability, including reasonable attorneys' fees, from any third party claim arising out of your use of the PlanSource Platform, use of any services related to the PlanSource Platform, your violation of this EULA, or the infringement by you, or any third party using your account, of any intellectual property or other right of any person or entity.
13. **HIPAA Privacy.** PlanSource has included a HIPAA Business Associate Agreement (the "BAA") within its HIPAA Privacy Policy, referred to below. This BAA will apply to you only to the extent you are considered to be acting as a Covered Entity to create, receive, maintain, or transmit personal health information ("PHI") via the PlanSource Platform, and where PlanSource, as a result, is considered to be acting as a Business Associate, as those terms are defined under HIPAA. You may not use or disclose any PHI under this Agreement without having first agreed to the BAA, that is incorporated into this Agreement by reference. You may access the HIPAA Privacy Policy and the BAA at: <http://www.plansource.com/hipaa-privacy-policy/>
14. **Additional Terms.** Additional notices, terms, and conditions, including the PlanSource Terms of Use <http://www.plansource.com/terms-of-use-2/> and Privacy Policy <http://www.plansource.com/privacy-policy-2/> (collectively, "Additional Terms") may apply to your use of the PlanSource Platform. To the extent applicable, you will abide by these Additional Terms. Your use of any additional PlanSource products or services related to this EULA may be subject to other written terms, conditions, and fee agreements required for the use of those products and services, all of which become a part of this EULA. If there is a conflict between this EULA and PlanSource's obligations relating to any of its products and services, the terms, conditions, notices, and agreements under which PlanSource provides those products and services will govern and nothing should be construed to alter those terms, conditions, notices, and agreements.
15. **Modifications.** PlanSource reserves the right to modify this EULA from time to time. PlanSource will post notices of EULA modifications through links placed on the PlanSource website or login pages or notification by other means. Please review this EULA periodically for changes. If you use the PlanSource Platform after PlanSource posts any changes, you have accepted them. If you do not agree to any modified terms of the EULA or changes to other policies, you should discontinue your use of the PlanSource Platform, and this will be your sole and exclusive remedy. If there is a conflict between this EULA and the most current version of this EULA posted on the PlanSource website, login pages, or otherwise provided to you, the most current version will prevail. At your request, PlanSource will provide a paper copy of this EULA and the Additional Terms. You may request paper copies at [Legal@plansource.com](mailto:Legal@plansource.com).
16. **Miscellaneous.** If you and PlanSource have signed a separate written agreement governing your use of the PlanSource Platform, the terms and conditions of that signed agreement will take precedence over any conflicting term and condition of this EULA. Otherwise, this EULA, the HIPAA Privacy Policy, the HIPAA Business Associate Agreement, and the Additional Terms represent the entire agreement between you and PlanSource. The laws of the state of Florida, without giving effect to its principles of conflicts of law, will govern all disputes arising out of this EULA. Venue for any claim regarding this EULA will be exclusively in Orange County, Florida. If for any reason, a court of competent jurisdiction finds any provision or portion of this EULA to be invalid or unenforceable, the validity or enforceability of the remainder of this EULA will not in any way be affected or impaired. PlanSource's failure to enforce any right or provision in this EULA will not constitute a waiver of the provision, or any other provision of this EULA. PlanSource will not be responsible for failures to fulfil any obligations because of causes beyond its control.
17. **EULA Acceptance.** By clicking the "I Accept" button below, you acknowledge that you have read, understood and agree to the terms and conditions of this EULA. If you do not have authorization to enter into this EULA or do not agree to all the terms of this EULA, do not click the "I Accept" button below.