

TERMS OF USE

1. Introduction

Healthtech Pivot Limited Liability Partnership, a limited liability partnership, bearing registration number AAI-9300 incorporated under the laws of India and having its registered office at 702A, Sai Sanskar Soc, Sion Trombay Road, Deonar Mumbai - 400088, Maharashtra (“**Healthtech**”) owns and operates a website (“**Website**”) and mobile based application (“**Mobile App**”) (*hereinafter collectively referred to as “Applications*”) which can track Radio Frequency Identification (“**RFID**”) tags to facilitate workflow automation in hospitals (“**Clients**”) (*hereinafter collectively referred to as “Pivot Smartflow*”).

Use of Pivot Smartflow by Clients may result in reducing cost, increasing efficiency, improving traceability of inventory by allowing Users to introduce unique device identification for instruments, tracking workflow easily and cost-effectively, gathering accurate and real-time data on User’s instruments.

All Users of the Applications are advised to carefully read and understand these terms and conditions (“**Terms of Use**”). By using or accessing Pivot Smartflow, a User agrees to be bound by the Terms of Use.

For the purpose of these Terms of Use, wherever the context so requires, “you” or “User(s)” shall mean the Client and shall include any natural or legal person or System Administrator (*as defined hereinafter*) who use(s) or access(es) Pivot Smartflow. The terms “we”, “us”, “our” shall mean Healthtech. Healthtech and Client are hereinafter referred to individually as a “Party” and collectively as the “Parties” in these Terms of Use.

Client’s access or use of Pivot Smartflow implies its acceptance of the Terms of Use, as amended from time to time, and constitutes an agreement between Client and Healthtech for use of Pivot Smartflow.

We reserve the right, in our sole discretion, to change, limit or discontinue any aspect, content or feature of Applications as well as any aspect pertaining to the use of Applications. Further, we also reserve the right, at our sole discretion, to change, modify, add or remove portions of these Terms of Use, at any time, without any prior notice to Client. Please review these Terms of Use for updates / changes at regular intervals. Continued use of Applications following the posting of changes will mean that Client accepts and agrees to all such revisions. As long as Client complies with these Terms of Use, we grant it a personal, non-exclusive, non-transferable, limited privilege to access and use the Applications.

2. User Account and Registration Obligations

The Client will nominate a natural person who will be responsible for administering and managing other Users when we set up a new Client for using or accessing Pivot Smartflow (“**System Administrator**”). The System Administrator will have to register on the Website by providing a unique username and password in line with the prescribed instructions and requirements to use or access Applications. Only a System Administrator can register persons as Users or remove Users at any point of time. The System Administrator will generate and allocate login credentials to Users, after which the Users can access Website. The Users may reset their password as per their

requirements. The Users can also access Pivot Smartflow by downloading the Mobile App from the secure link provided by us and agreeing to Terms of Use.

Client acknowledges that it would be ultimately responsible for any action, omission or other lawful or unlawful activity by the System Administrator appointed by it and any subsequent Users included or added by the System Administrator. The User further acknowledges that irrespective of its usage of the Pivot Smartflow and its privity with Healthtech by way of this Terms of Use, Client shall be the sole person legally and contractually entitled to raise any disputes or other concerns with Healthtech and Healthtech owes no responsibility whatsoever, to any other User, other than the Client, subject to the Terms of Use. The Client shall remain solely liable to indemnify Healthtech for any loss incurred by Healthtech due to any act, omission or negligence of Client or other Users accessing the Pivot Smartflow via the Client, while using the Pivot Smartflow.

3. General Conditions

3.1. *The User agrees, undertakes and confirms that his/her use of Pivot Smartflow shall be governed by the following principles:*

- a. The User shall access the Applications only for lawful purposes and shall be responsible for complying with all applicable laws, statutes and regulations in connection with the use of Applications.
- b. Healthtech claims its ownership on the design/s, the development of Applications, the idea on which the Applications are floated, and other material and products.
- c. The User shall not probe, scan or test the vulnerability of Applications or any network connected to the Applications nor breach the security or authentication measures on the Applications or any network connected to the Applications.
- d. The User agrees not to use any device, software or routine to interfere or attempt to interfere with the proper working of the Applications.
- e. The User agrees to use or access the Applications only in accordance with the Terms of Use.
- f. The User shall not:
 - i. reverse engineer, decompile or disassemble the Applications;
 - ii. modify or create derivative works of the Applications;
 - iii. publish the results of any benchmark or similar tests it performs on Applications.

4. Subscription Fee and Details

Healthtech provides a subscription service that allows Client or other Users through Client to use and access Pivot Smartflow. Healthtech shall provide details such as but not limited to Subscription Fee, Client’s membership period on the Applications, etc., with relation to the subscription service subscribed by Client (“**Subscription Details**”).

The Client will be charged a fee as detailed out in Subscription Details (“**Subscription Fee**”). We may in our sole discretion revise the Subscription Fee from time to time. The Client will be able to use or access Pivot Smartflow, subject to the Terms of Use, for as long as the Client continues to make payment towards Subscription Fee. Healthtech may block User’s access to Applications or terminate this Terms of Use in case of Client’s failure to make payment towards Subscription Fee. On payment of such Subscription Fee, Users shall be able to use and access the Applications again. We agree to maintain User’s profile with relevant data for a period of 3 months from the date of Client’s failure to make payment towards Subscription Fee. On expiry of the 3rd month from date of non-payment of Subscription Fee, we reserve the right to delete User’s profile with all data on the Applications. Client is responsible for all carrier data plan and other fees and taxes associated with its use or access of Pivot Smartflow.

5. **Confidential Information**

The Applications contain confidential information of Healthtech, as well as proprietary information. All rights, title and interest, including without limitation, copyright in and to the Applications are the sole and exclusive property of Healthtech. The confidential information in the Applications shall include all parts and aspects of the Applications, including without limitation any images, graphic user interface, design elements, order of operation, “look and feel”, data organization, ideas, concepts, photographs, animations, text and applets that are incorporated into the Applications, all accompanying printed material including documentation and feature lists of Applications. For the avoidance of doubt, any information provided by the User or generated by the User during the course of their use of the Application, will not be considered as confidential information of Healthtech. The User may only disclose confidential information to its employees and consultants on an “as needed” basis. The User shall not disclose confidential information to any third party without the express written consent of Healthtech. If Healthtech grants Users a limited right to disclose certain confidential information, then Users must have written agreements with them that protect the confidential information at least as much as this Terms of Use. The User’s duty to protect confidential information survives this Terms of Use to the extent legally permitted. If a court of law orders for the disclosure of confidential information covered by this Terms of Use, to the extent permissible under applicable law, the User must first notify Healthtech and allow Healthtech to seek a protective order or otherwise protect that information.

6. **Disclaimer for Use of Applications**

The Client is solely responsible for use of Applications and for the accuracy and adequacy of information and data furnished by it for processing. The Client has full responsibility for the care and well-being of its patients and any reliance by it upon the Applications will not diminish that responsibility. The Applications are not designed, intended or authorized for use in or as a lifesaving or life-sustaining system, or for any other application in which the failure of Applications could create a situation where personal injury or death may occur. The Applications are not designed or intended to be a substitute for professional medical advice, diagnosis or treatment and should not be used to replace or as a substitute for professional medical advice, diagnosis, treatment or judgement. The User warrants that in the course of providing any service, all medical treatment decisions are based entirely upon the Client’s (or its staffs’ or contractors’) professional medical judgement and in accordance with generally accepted standards of medical practice, including without limitation, verifying critical outputs of Applications, confirming the accuracy of life-threatening information and

critically important results in the same manner that such information and results would be confirmed or verified if they were in paper form and as would be required by generally accepted standards of medical practice. The Client is solely responsible for assessing the suitability of Applications for use at its premises and other facilities and shall be solely responsible for personal injury, professional or public liability or death that may occur as a result of its use of Applications. The Client hereby agrees to use the Applications only for the purposes mentioned and strictly in accordance with the documentation provided. We will not be held responsible for mal-functioning of the Applications or inaccuracies, in case of Client and other Users not strictly adhering to instructions and requirements as detailed out in the documentation provided by us.

Should the Client purchase or use the Applications for any unintended or unauthorised use, the Client shall indemnify and hold Healthtech and its officers, subsidiaries and affiliates harmless against all claims, costs, damages, and expenses, and legal fees arising out of, directly or indirectly, any claim of product liability, professional liability, public liability, negligence, medical misadventure, accident, personal injury or death associated with such unintended or unauthorised use, even if such claim alleged that Healthtech was negligent regarding the design or coding of Applications.

7. **DISCLAIMER OF WARRANTY**

Healthtech warrants to Client that the Applications will materially perform in accordance with the documentation provided, during the subscription period. For avoidance of doubt, it is hereby clarified that Healthtech shall not be held responsible for proper functioning of the Applications in case of a User not strictly adhering to instructions and requirements as detailed out in the documentation provided by Healthtech. Except for the foregoing, Healthtech gives no express warranties, guarantees or conditions to the extent permitted at law. Further the functionality of the hardware accompanying the Applications is constrained by standard technological limitations as is inherent to hardware of such nature. In addition to the aforementioned the functionality of the hardware is subject to the limitations as described in the accompanying documents and user instructions provided to the Client. This Clause does not alter Client’s rights under any relevant consumer rights under applicable local laws which may be applicable and cannot be excluded. To the extent legally permitted, Healthtech excludes the implied warranties of merchantability, fitness for a particular purpose and non-infringement.

8. **Privacy Policy**

We view protection of Client’s and other Users’ privacy as a very important principle. We store and process information in accordance with our current Privacy Policy as specified in this Clause.

Collection of Personal Information

When a User uses the Applications, we collect and store its information like name, email address, mobile number, employee code, etc. The main objective in doing so is to provide Client with a secure, efficient and customized experience.

If User intends to avail / use Pivot Smartflow and/or share its personal information with Healthtech through the Applications, it is solely at its own risk and volition.

If Users send any personal correspondence to Healthtech, such as e-mails, Healthtech may collect such information into a file specific to the User.

We store data (including but not limited to patient id, surgeon name, name, date and time of procedure, User's email address, employee code, department details, etc.) on the cloud.

Use of Users' Information

We as information controller may use personal information for statistical analysis to develop and improve our Applications and to update Users' records.

Further, we may use personal information for any other purposes with prior permission.

Managing Users' Information

Pre-approved Sharing of Information

Disclosure to third party service providers: We may contract with various third parties who help us in maintenance and improvement of the Applications and Pivot Smartflow. For example, we may engage a third party to provide cloud storage services to us, etc. We will use commercially reasonable efforts to prevent such third parties from disclosing Client's and other Users' personal information, except for the purpose of providing the services in question. We cannot guarantee that such third parties will not disclose Users' personal information.

Disclosure under law: Healthtech may disclose personal information, without obtaining prior permission, if required to do so by law or if, in good faith, it believes that such disclosure is reasonably necessary to respond to subpoenas, court orders, or other legal process or to protect the interests of Healthtech.

Disclosure to successor: Healthtech and its affiliates may share/sell some or all of Users' personal information with another business entity in case of merger, amalgamation, acquisition, joint ventures, restructuring of business by/with such business entity. In case of any such transaction, the other business entity will be required to follow this Privacy Policy with respect to Users' personal information.

Healthtech may change, modify, amend, suspend, terminate, or replace this Privacy Policy from time to time and within its sole and absolute discretion. In the event Healthtech changes, modifies, amends, or replaces this Privacy Policy, Client's continued use of Pivot Smartflow after a change constitutes manifestation of assent to the change, modification, amendment, or replacement contained within.

9. Applications Contents

The Pivot Smartflow is owned and operated by Healthtech. The visual interfaces, graphics, design, compilation, information, computer code (including source code and object code), products, software, services, and all other elements of Pivot Smartflow and the Applications provided by Healthtech (collectively, "**Content**") are protected by Indian copyright, patent, and trademark laws, international conventions, and all other relevant intellectual property and proprietary rights, and applicable laws. As between Client and Healthtech, all Content, trademarks, service marks, and trade names contained on the Applications are the property of Healthtech. Healthtech reserves all rights not expressly granted in this Terms of Use. Other than as expressly permitted in this Terms of Use, Client agrees not to sell, license, distribute, copy, modify, publicly perform or display, transmit, publish, edit, adapt, create derivative works from, or otherwise make unauthorized use of the Content.

10. Communications

When Users use the Application, or send emails or other data, information or communication to us, User agrees and

understands that it is communicating with us through electronic records and User consents to receive communications via electronic records from us periodically and as and when required. We may communicate with User by email, push notifications or by any other mode of communication, electronic or otherwise.

11. Limitations and Exclusion of Remedies and Damages

11.1. **Limitation:** To the extent legally permitted, under no circumstances will Healthtech be liable for any consequential, incidental, indirect, punitive or special damages, or any other financial damages, such as lost profits or damages due to late delivery, whether foreseeable or unforeseeable, based on claims of Users (including, but not limited to, claims for loss of data, goodwill, loss of business, damage to reputation, use of money, interruption in use or availability of data, stoppage of other work or impairment of other assets), which may arise out of any of the following: breach or failure of express or implied warranty, breach of contract, misrepresentation; negligence, strict liability in tort, or any other theory of liability.

11.2. **Maximum Aggregate Liability:** To the extent legally permitted, in no event will the aggregate liability of Healthtech in respect of any claim arising out of this Terms of Use or in relation to Applications exceed the total amount actually paid to Healthtech by the User for the specific item that directly caused the damage.

12. Termination

12.1. **Breach:** This Terms of Use, including all rights granted in it, may be terminated by Healthtech in the event of a material breach of this Terms of Use by User which the User fails to remedy within 30 (thirty) days after being notified, or immediately if it cannot be remedied.

12.2. **Insolvency:** Either Party may terminate this agreement immediately on notice to the other Party, if the other Party becomes insolvent.

12.3. Upon termination of this Terms of Use, the User shall immediately cease all use of the Applications, documentation, and other confidential information, and shall delete and/or return all such items to Healthtech.

13. Disputes

13.1. In case of any dispute, differences, controversies and questions or claims ("**Dispute**") arising out of or in connection with or relating to the performance, interpretation, termination or validity of this Terms of Use, the Parties shall take reasonable endeavors to resolve such Dispute through mutual discussions within a period of 30 (thirty) days from the date of receipt of notice of such Dispute by one Party from the other.

13.2. In the event the Dispute cannot be resolved amicably by Parties within 30 (thirty) days from the date of notification of Dispute by one Party to the other, the Dispute shall be resolved by arbitration conducted by a single arbitrator appointed in accordance with the Arbitration and Conciliation Act, 1996, as applicable in India, with its statutory modifications, enactments or re-enactments thereto as amended.

- 13.3. In case Parties are unable to reach an agreement on the appointment of a sole arbitrator, the Dispute shall be resolved by a panel of 3 (three) arbitrators. Each Party shall appoint 1 (one) arbitrator and the third presiding arbitrator shall be jointly appointed by the 2 (two) arbitrators so appointed.
- 13.4. The place of arbitration shall be Mumbai and the language to be used in the proceeding shall be English. The Parties agree that the arbitration award shall be binding on them and that the arbitral award shall be the sole and exclusive remedy regarding any claims, counterclaims or issues presented to the arbitrators.
- 13.5. This Terms of Use shall be governed by laws of India and subject to this Clause 13, the courts at Mumbai shall have sole and exclusive jurisdiction in relation to any matters, dispute arising under this Terms of Use.

14. Miscellaneous

- 14.1. **Assignment:** The User may not delegate or subcontract any of its duties or assign, transfer or sublicense any of its rights or obligations under this agreement, whether voluntarily or involuntarily, by operation of law, change of control or otherwise, without Healthtech's prior written consent. Any attempted assignment, delegation and/or transfer in violation will be null and void.
- 14.2. **Notices:** Either Party will give any required notice under this agreement to the other at the address or email details as last notified to the other. Notice will be effective once received and will be deemed to be received if posted nationally (on the fourth day), posted internationally (seven days after posting) or emailed (when successfully received at the recipient's mail server).
- 14.3. **Entire agreement:** This Terms of Use constitutes the entire agreement between the Parties relating to its subject matter and supersedes all prior understandings, arrangements and agreements between the Parties.
- 14.4. **Variation and waiver:** A provision of this Terms of Use or a right created under it, may not be varied or waived except in writing, signed by the Party or Parties to be bound.
- 14.5. **No liability for loss:** A Party is not liable for loss caused by the exercise or attempted exercise of, failure to exercise, or delay in exercising a right or remedy under this Terms of Use.
- 14.6. **Remedies cumulative:** The rights and remedies provided in this Terms of Use are in addition to other rights and remedies given by law independently of this Terms of Use.
- 14.7. **Indemnities:** The indemnities in this Terms of Use are continuing obligations, independent from the other obligations of the Parties under this agreement and continue after this Terms of Use ends. It is not necessary for a Party to incur expense or make payment before enforcing a right of indemnity under this Terms of Use.
- 14.8. **Set-off:** There are no common law rights of set-off under this Terms of Use.
- 14.9. **No partnership:** Pivot Smartflow shall be provided to the Users on a principal-to-principal basis. Nothing in this Terms of Use is intended or is deemed to constitute a partnership, joint venture, an agency relationship or employment of any kind between Healthtech and the User.
- 14.10. **Construction:** No rule of construction applies to the disadvantage of a Party because that Party was responsible for the preparation of, or seeks to rely on, this Terms of Use or any part of it.
- 14.11. **Force Majeure:** Neither Party shall be liable or deemed to be in breach for any delay or failure in performance of this Terms of Use (*except for the payment of money*) resulting directly or indirectly from acts of God, civil or military authority, war, riots, civil disturbances, terrorist acts or threats, fire, earthquake, floods, strikes, lock-outs, labour disturbances (*other than those of the employees of Party claiming relief*), foreign or governmental order, or any other cause beyond the reasonable control of such Party.
- 14.12. **Contact Us**
Users may contact us for questions or comments regarding the Applications or the Terms of Use at [solutions@pivotsmartflow.com] or call us on [+91 22 49721279]. Please allow up to 3 working days (72 hours) for a response email.
- Users may leave us their feedback at any time using our "Contact Us" feature.
- 14.13. **Grievance Officer**
As required under the Information Technology Act, 2000 and rules made thereunder, the details of the Grievance Officer are as below:
- Radhika Bawa
Healthtech Pivot Limited Liability Partnership
A107 Arjun Centre, BKS Devshi Marg, Govandi
Mumbai - 400088
+91 2249721279
radhika@pivotsmartflow.com
Time: Monday to Saturday 10:00 AM to 6:00 PM
- This document is an electronic record in terms of the Information Technology Act, 2000 and rules thereunder (as modified or amended from time to time). This electronic record is generated by a computer system and does not require any physical or digital signature.