

Image Safe End User License Agreement

Welcome to Image Safe.

Image Safe is a service provided by Health v2 Technology Pty Ltd (Health v2). Image Safe allows Users to securely store and access medical photographs and related information. The system also allows Users to invite third parties to upload their own photographs to the User's store in Image Safe.

1. Your Agreement with Health v2

Your use of image Safe is governed by this agreement. "Health v2" means Health v2 Pty Ltd, located at G2, 84 Alexander St, Crows Nest 2065, NSW, Australia.

A User is any person who accesses and/or uses Image Safe. Each User agrees to be bound by the most current version of these Terms of Use, published on the website at www.imagesafe.com.au

Health v2 grants each User a limited non-exclusive right to access and use Image Safe under the terms set out in these Terms of Use.

A User must not use the Service and must not accept these Terms of Use if he or she is not of a legal age or capacity to form a binding contract with Health v2.

Each User should print or save a local copy of these Terms of Use for his or her records.

2. Purpose of Use

Image Safe is designed for use by Doctors in conjunction with an approved Patient Management System (PMS). see www.imagesafe.com.au for an up to date list of integrated PMS.

The PMS is used to locate, view and store data in Image Safe. Patient information stored in the PMS can not be accessed via Image Safe.

Image Safe integrates photographs, annotation and image markers within the PMS to enhance the Doctor's clinical experience. The solution also provides Doctors with the ability to create limited invitations for their patients that allow the upload of their photographs into the Image Safe system.

The service is only a means of storing and associating additional information with the existing PMS patient record. image Safe does not offer medical advice. Any content accessed through image Safe is for informational purposes only, and is only intended to enhance an existing medical record.

This content should not be relied upon during a medical emergency.

3. Your Account and Use of Image Safe

You are responsible for and must ensure that:

- Proper patient consent has been obtained before images are acquired
- Appropriate images of patients have been recorded on Image Safe
- A proper explanation of the Image Safe Service has been provided to the patient
- Compliance with all applicable laws, regulations and ordinances, including health records, privacy, security and freedom of information have been adhered to
- Patient invitation access credentials are only provided to the appropriate patient
- All user names, passwords and unlock codes for devices that run Image Safe and the associated PMS are properly managed

You must not, nor cause or permit a third party to:

- use the Service in a manner or for a purpose which is improper, immoral or fraudulent, which infringes any person's rights (including Intellectual Property Rights), or which restricts or interferes with the provision of Image Safe by Health v2 to any other customer or user;
- reverse engineer, reverse assemble or reverse compile all or part of Image Safe;
- enter into any transaction relating to access or use of Image Safe with a party other than Health v2, without the written consent of Health v2; or
- attempt to gain unauthorised access to the Service, computer systems or networks connected to the Service, through hacking, password mining or any other means.
- You may not access Image Safe other than by the interfaces provided by Health v2.

- You must immediately notify Health v2 of any unauthorized use of your Image Safe account by contacting support via email at support@healthv2.com

4. Patient's Rights

A Patient has the right to object to the use or transfer of patient records relating to them (including photographic images and data) other than in accordance with their consent or as authorised by law.

Photographic images and other data relating to a Patient may be requested, at any time, by that Patient through relevant laws.

5. Use of Your Information

If you create, transmit, or display health or other information while using Image Safe, you may provide only information that you own or have the right to use. When you provide your information through Image Safe, you give Health v2 a license to use and distribute it in connection with Image Safe and other Health v2 services. However, Health v2 may only use health information you provide as permitted by the Image Safe Privacy Policy, your Sharing Authorization, and applicable law. Health v2 is not a "covered entity" under the Health Insurance Portability and Accountability Act of 1996 and the regulations promulgated thereunder ("HIPAA"). As a result, HIPAA does not apply to the transmission of health information by Health v2 to any third party.

6. Additional Terms

Your use of Image Safe and any content accessed through Image Safe is subject to each of the additional terms provided in connection with Image Safe, including the [Image Safe Privacy Policy](#).

7. Health v2 Proprietary Rights

Health v2 and its Licensors own all proprietary rights to Image Safe. Health v2 gives you a personal, revocable, non-assignable, and non-exclusive license to use Image Safe.

8. Modification and Termination of Image Safe

Health v2 may place limits on, modify, suspend or terminate Image Safe generally, and may suspend or terminate your use of Image Safe if you fail to comply with this agreement. This suspension or termination may delete your information, files, and other previously available content. If Health v2 terminates Image Safe or your use of Image Safe, this agreement will also terminate, but Sections 3, 5, 7, 8, and 16-18 shall continue to be effective after this agreement is terminated.

9. Service Availability

While Health v2 intends to make the Service available 24 hours a day, seven days a week, on occasions the Services or Website may be unavailable to permit maintenance or other development activity to take place.

In the case of technical problems that adversely affect a User's use of the Service, that User must make all reasonable efforts to investigate and diagnose problems before contacting Health v2. If a User still needs technical help, the User must notify Health v2 promptly. Please check the help documentation provided online by Health v2 on the Website or failing that, please email Health v2 at support@healthv2.com.

Health v2 may temporarily limit or suspend the availability of all or part of the Service if it is necessary for reasons of public safety, security or maintenance of the Service, interoperability of services, data protection or to perform work that is necessary for operational or technical reasons.

10. Additional Services

A User may request Health v2 to provide Additional Services to him or her. If so, Health v2 may charge the User for providing the Additional Services at the prevailing rates charged by Health v2 for those services, as notified by Health v2 to the User.

11. Storing data on Image Safe

Only Users with Credit can store data on Image Safe. Credit is only allocated to Users under a Trial account or Paid Subscription.

12. User Accounts

Following are the states in which you can exist as a User on the Image Safe system:

1. Free Trial: this state allows Users to view, store and edit data on Image Safe, limited by Credit.
2. Free: this state allows Users to view and edit data on Image Safe only. Credit to store new photographs is not allowed in this state.
3. Subscriber Paid: this state allows a User to view, store and edit data on Image Safe, limited by Credit.
4. Subscriber Unpaid: this state allows a User to view, store and edit data on Image Safe, limited by Credit and only for two weeks from the date of the last invoice.
5. Subscriber Defaulted: this means a Subscriber has defaulted on payment for the service. This state will block all access to Image Safe. Users will not be able to view, store and edit data until payment is received.

13. Fees and Payment

You agree to pay Health v2 the Service Fee monthly in advance, as well as any fees due for additional services within 14 days of invoice.

Payment is to be made by direct debit from the User's bank account or by charging the User's credit card, using the bank account or credit card details provided by the User, at one month intervals from the first day of subscription.

Health v2 may change the Service Fee and the fee for Image storage by giving the User thirty (30) days notice of the increase.

14. Cancellation and Refunds

You may cancel your subscription to the Service at any time and without notice.

Cancellation of the service will result in immediate termination of your User account.

Health v2 provides refunds for cancellations only. Refunds are based on a pro rata calculation from the day of cancellation for the active, paid month.

15. Data Retention

All data stored in Image Safe by a User is maintained by Health v2 while:

1. that User's account is active under a 'Subscriber Paid' account and;
2. the data is not older than 7 years.

Data stored under all other states, referred to in section 12., is retained for 180 days.

Users can request a copy of their data from Health v2 only when:

1. all outstanding invoices are paid in full and;
2. a written request has been received within 90 days of the last paid invoice.

16. Taxes and GST

The User must reimburse Health v2 for all sales, use, transfer, privilege, excise or other taxes and all duties, whether international, national, state or local, however designated, which are levied or imposed by reason of the transactions contemplated under these Terms of Use, excluding, however, income taxes on profits which may be levied against Health v2.

All consideration provided for any taxable supply under these Terms of Use is exclusive of GST unless the contrary is clear. The amount of that consideration must be increased by an additional amount equal to the GST on that taxable supply. The party who has to pay the additional amount must pay it at the same time as the consideration in respect of that taxable supply becomes due.

If at any time an adjustment is made or required to be made between a party and the relevant taxing authority on account of any amount paid as GST under these Terms of Use:

- 1) a corresponding adjustment must be made;
- 2) adjustment notes must be issued; and
- 3) any payment must be made, between the parties as may be necessary to give effect to the adjustment.

17. Changes to this Agreement

Health v2 may change this agreement and will post the modified agreement at <http://www.imagesafe.com.au>. If you do not agree to the modified agreement, you should stop using Image Safe. Your continued use of Image Safe after the date the modified agreement is posted will constitute your acceptance of the modified agreement.

18. Force Majeure

Each User acknowledges that making the Service available for access is dependent on a number of factors outside Health v2's control, for example, the telecommunication connections and infrastructure.

Except for any payment obligations, neither party is liable for any delay or failure to perform any of its obligations under these Terms of Use to the extent that the delay or failure is caused by reason of Force Majeure.

19. Disclaimer

Health v2 has no responsibility to any person other than each User and nothing in these Terms of Use confers, or purports to confer, a benefit on any person other than a User. If a User accesses and uses the Service on behalf of or for the benefit of anyone else, then he or she must ensure that he or she has the right to do so.

Health v2 makes no representation or warranty:

- (1) that use of the Service will be error-free, uninterrupted or compatible with the equipment and software configurations of any User;
- (2) that the Service will be fit for each User's purpose.

Each User acknowledges and agrees that the quality of data stored in Image Safe is dependent on the quality of the photographs taken by the User and the accuracy of the User in identifying and updating each Image.

20. Exclusion of Warranties

Health v2 does not make any express warranties, and disclaims all implied warranties, including implied warranties of accuracy, merchantability, fitness for a particular purpose, and non-infringement. Content in Image Safe is developed for use in Australia, and Health v2 make's no representation concerning the content when used in any other country.

21. Limitation of Liability

Nothing in these Terms of Use is or should be interpreted as an attempt to modify, limit or exclude terms, warranties or guarantees which are imposed by statute and which cannot be modified, limited or excluded.

Health v2 excludes to the extent permitted by law all other terms, conditions, warranties and guarantees which might be implied into these Terms of Use.

No User relies on any representation, warranty, guarantee or other provision made by Health v2 or on its behalf which is not expressly stated in these Terms of Use.

Health v2 is not liable for any damage, economic loss, loss of revenue, loss of saving on overheads, loss arising from business interruption, loss of goodwill or loss of profits whether direct, indirect, general, special or consequential from any cause except as set out in this clause, even if it has been advised of the possibility of such damages or loss.

The liability of a party for loss or damage sustained by the other party will be reduced proportionately to the extent that:

- 4) such loss or damage has been caused by the other party's failure to comply with its obligations and responsibilities under the Terms of Use; or
- 5) the negligence of the other party has contributed to such loss or damage, regardless of whether a claim is made by the other party.

NEITHER YOU NOR HEALTH V2 OR ANY OF ITS LICENSORS MAY BE HELD LIABLE UNDER THIS AGREEMENT FOR MORE THAN \$100 IN AGGREGATE.

The limitations of liability in this Section do not apply to breaches of intellectual property provisions or indemnification obligations.

22. General Legal Terms

If you have not signed a separate written agreement with Health v2 related to Image Safe, this agreement is the entire agreement between you and Health v2 related to Image Safe, replacing any prior agreements. If there is any conflict between this agreement and a signed written agreement between you and Health v2 related to Image Safe, the signed written agreement will control.

Health v2's Partners may be third party beneficiaries to this agreement. There are no other third party beneficiaries to this agreement. The parties are independent service providers, and nothing in this agreement creates an agency, partnership, or joint venture.

If Health v2 provides you with a translation of the English language version of this agreement, the English language version of this agreement will control if there is any conflict.

Failure to enforce any provision will not constitute a waiver of that provision. If any provision is found unenforceable, it and any related provisions will be interpreted to best accomplish the unenforceable provision's essential purpose.

These Terms of Use and all matters regarding the interpretation and/or enforcement of these Terms of Use, are governed exclusively by the laws in force in the State of New South Wales, Australia and the parties submit to the non-exclusive jurisdiction of the courts of New South Wales.