

# General Terms and Conditions - diasend<sup>®</sup> Clinic

These General Terms and Conditions diasend<sup>®</sup> Clinic, including all terms below, (the “GTC(s)”) is entered into between Glooko AB, a company registered in Sweden under company registration number 556668-4975, located at Nellickevägen 20, 412 63 Gothenburg, Sweden (the “Company”), and the Client listed on a duly executed Order Form as defined below (“Client”), as of the date of the final signature on such Order Form (“Effective Date”). The parties agree as follows:

- 1. Order Forms.** During the Term of the Agreement, defined below, Company and Client may enter into order or booking forms (each, an “Order Form”) for the purchase of software licenses, hosting services, professional services, and hardware, as applicable (collectively, the “Deliverables”). Each Order Form is expressly subject to and incorporated into these GTCs and together they are collectively referred to as the “Agreement“. Company objects to and rejects all additions, exceptions, or changes to the Agreement, whether contained in any purchase order, request for proposal (“RFP”), request for quote (“RFQ”), or other form received from Client or elsewhere. The inclusion of a purchase order, RFP, RFQ, or other Client number on any Order Form or a Company invoice is for reference purposes only and is not an acceptance by Company of any terms or conditions contained therein or elsewhere.
- 2. Fees.** Client shall pay Company for the Deliverables it purchases as detailed in each Order Form entered into between the parties. Payment is due 30 days from the date of each invoice. Except as otherwise agreed to in an Order Form, Company reserves the right to modify its fees and rates for the Deliverable upon the completion of the Initial Term and any subsequent Renewal Term. Company shall provide at least 60 days of notice to Client prior to any change to rates or fees for a subsequent Renewal Term and should Client choose to terminate services by provision of written notice to Company, prior to the start of any subsequent Renewal Term effective date. Any undisputed amount past due more than thirty (30) days, shall earn interest on the overdue balance at the rate of one-half percent (1.5%) per month or the maximum permitted by law, whichever is less, plus all expenses of collection.
- 3. Suspension.** Non-payment or late payment of undisputed fees is a material breach of this Agreement, and shall entitle Company, in its sole discretion, to (i) withhold performance and discontinue service until all amounts due are paid in

full; or (ii) terminate this Agreement with immediate effect by providing Client with written notice. Company reserves the right, in its sole discretion, to withhold performance and discontinue service upon detection of potential illegal use by Client, or for law enforcement actions.

4. **Taxes.** The fees payable under the Agreement shall not include local, state or federal sales, use, value-added, excise or personal property or other similar taxes or duties now in force or enacted in the future imposed on the transaction and/or the delivery of the Deliverables, all of which Client shall be responsible for and pay in full except those taxes based on the net income of Company. If Client claims tax exempt status, certificate of such status should be submitted to Company prior to execution of any Order Form.
5. **Term and Termination.**
  1. **Term.** The term of this Agreement begins on the Effective Date and lasts until terminated in accordance with this section.
  2. **Termination.** A party may terminate this Agreement: (i) for cause upon 30 days written notice to the other party of a material breach if such breach remains uncured at the expiration of such period; (ii) for cause if the other party becomes the subject of a petition in bankruptcy or any other proceeding relating to insolvency, receivership, liquidation or assignment for the benefit of creditors; (iii) if there are no active Order Forms in effect, by sending written notice to the other party.
  3. **Effect of Termination.** Upon termination Company shall discontinue provision of services. Termination will not relieve Client of the obligation to pay any fees due or payable to Company prior to the effective date of termination, including annual fees, implementation fees, training fees, subscription fees, or any other fees or payments that Client has committed to under the Agreement.
6. **Transition Services.** At the request of Client, for up to ninety (90) days after termination of this Agreement, Company agrees to provide Client with support and transition services at its then-current rates. The provisions of this Agreement will remain in effect for the agreed upon transition assistance period and will apply to all transition assistance services provided by Company during such period.
7. **Client Cooperation.** Client acknowledges that its timely provision of appropriate personnel, equipment, assistance, cooperation, and complete and accurate information and data from its officers, agents, and employees, and suitably configured computer products are essential to Company's performance under this Agreement. Company shall not be liable for any deficiency in its

performance if such deficiency results from Client's failure to provide full cooperation. Client agrees that it is responsible for providing and maintaining its own Internet access and all necessary telecommunications equipment, software and other materials at its own location necessary for its use of the Deliverables.

8. **Security.** Company maintains commercially reasonable security measures to prevent unauthorized access to all data, computer hardware and other equipment and/or software used by Company to provide the Deliverables under which Company documents, implements and maintains the physical, administrative, and technical safeguards necessary to: (a) comply with applicable law; and (b) protect the confidentiality, integrity, and availability, of all data and information controlled by it. Company shall maintain written security management policies and procedures to identify, prevent, detect, contain, and correct violations of measures taken to protect the confidentiality, integrity, and availability, of all data and information controlled by it. Client shall be solely responsible for the security of Client's own internal information technology and physical office space operating environments. Client shall immediately notify Company of any other breach of security in its use of the Deliverables or in its own systems and environments.
9. **Privacy Program.** Company has implemented and maintains a privacy program that complies with all applicable laws. Company complies with its privacy notices and policies that relate to the use, collection, transfer, processing, access, protection, storage, or destruction of any type of personal data collected by it. Company's Privacy Notice is available at <https://www.glooko.com/privacy>, as may be amended and updated by Company from time to time in its sole discretion.
10. **Business Continuity and Disaster Recovery Plan.** Company shall maintain an adequate business continuity and disaster recovery plan in place that minimizes the impact of disruptions to its critical business processes, provides coordinated responses to potential or actual disruptions, and coordinates restoration activities once a disruption has ended. The business continuity plans shall address critical business processes, products and services that address loss of facilities, people, equipment and third party providers supporting any critical services. Company shall restore the production capability of critical information technology infrastructure (including but not limited to data centers, hardware, software and power systems) and critical voice, data and e-commerce communications links as soon as reasonably possible after the point of failure. Company shall assess and update its business continuity plan on a regular basis. Such assessment and update shall consider the nature and extent of the services

then being performed by Company in light of current business and technology risk. Plans shall provide for remediation within timeframes reasonably commensurate with the level of risk posed by the deficiency. Upon experiencing a business disruption, Company shall notify Client as soon as is practical following any material disruption in service that implicates its business continuity plan or the declaration of a disaster.

11. **Modifications.** Company may from time to time develop enhancements, updates, improvements, modifications, extensions and other changes to the Deliverables (“Modifications”). Company has the right to implement such Modifications in its sole discretion at any time provided that such Modifications do not have a material adverse effect on the functionality or performance of the Deliverables.
12. **Functionality.** The functionality, operation and scope of all of the Deliverables shall conform to the then current Company-issued documentation respecting each Deliverable.
13. **Feedback.** Client, from time to time, may submit comments, information, questions, data, ideas, description of processes, or other information provided to Company in its use of the Deliverables (“Feedback”). For any and all Feedback, Client grants to Company a non-exclusive, worldwide, perpetual, irrevocable license to use, exploit, reproduce, incorporate, distribute, disclose, and sublicense any Feedback in its products and services. Client represents that it holds all intellectual or proprietary rights necessary to grant to Company such license, and that the Feedback will not violate the personal, proprietary or intellectual property rights of any third party.
14. **No Practice of Medicine.** Client acknowledges and agrees that Company is not engaged in the practice of medicine through the provision of any of the Deliverables to Client under this Agreement.
15. **Compliance with Laws.** Each party shall comply with all applicable laws and government regulations in its performance under this Agreement.
16. **Publicity Rights.** In the event Client purchases white labeling of the Deliverables or any brand attribution or linking within the Deliverables, Client grants Company a limited, nonexclusive, non-transferrable, royalty free right to display its name, logo and trademarks in such Deliverables during the Term, in the manner expressly agreed to between the parties.
17. **Insurance.** Company represents that it has, as of the Effective Date, reasonable and appropriate insurance coverage which it shall maintain throughout the Term. At Client’s request, Company shall provide Client with certificates or other acceptable proof of its insurance, describing such coverage.

18. **Confidentiality.** Except as expressly permitted in this section, neither party will, without the prior written consent of the other party, disclose any Confidential Information of the other party to any third party. Information will be considered Confidential Information of a party if either (i) it is disclosed by a party to the other party in tangible form and is conspicuously marked “Confidential”, “Proprietary” or the like; (ii) it is disclosed by a party to the other party in non-tangible form and is identified as confidential at the time of disclosure; (iii) it is disclosed under circumstances in which a reasonable person would consider the information confidential or proprietary; (iv) its proprietary nature is apparent from the context, contents, or nature of the information disclosed; or (v) it contains the disclosing party’s technical information, pricing information, pricing methodologies, or information regarding the disclosing party’s business planning or business operations. In addition, notwithstanding anything in this Agreement to the contrary, the terms of this Agreement will be deemed Confidential Information of Company. Other than the terms and conditions of this Agreement, information will not be deemed Confidential Information hereunder if such information: (i) is known to the receiving party prior to receipt from the disclosing party directly or indirectly from a source other than one having an obligation of confidentiality to the disclosing party; (ii) becomes known (independently of disclosure by the disclosing party) to the receiving party directly or indirectly from a source other than one having an obligation of confidentiality to the disclosing party; (iii) becomes publicly known or otherwise ceases to be secret or confidential, except through a breach of this Agreement by the receiving party; or (iv) is independently developed by the receiving party without the use of the disclosing party’s Confidential Information. Each party will secure and protect the Confidential Information of the other party (including, without limitation, the terms of this Agreement) in a manner consistent with the steps taken to protect its own trade secrets and confidential information, but not less than a reasonable degree of care. Each party may disclose the other party’s Confidential Information where (i) the disclosure is required by applicable law or regulation or by an order of a court or other governmental body having jurisdiction after giving reasonable notice to the other party with adequate time for such other party to seek a protective order; (ii) if in the opinion of counsel for such party, disclosure is advisable under any applicable securities laws regarding public disclosure of business information; or (iii) the disclosure is reasonably necessary and is to that party or its affiliates’, employees, officers, directors, attorneys, accountants and other advisors, or the disclosure is otherwise necessary for a party to exercise its rights and perform its

obligations under this Agreement, so long as in all cases the disclosure is no broader than necessary and the person or entity who receives the disclosure agrees prior to receiving the disclosure to keep the information confidential. Each party is responsible for ensuring that any Confidential Information of the other party that the first party discloses pursuant to this Section 18 (other than disclosures pursuant to clauses (i) and (ii) above that cannot be kept confidential by the first party) is kept confidential by the person receiving the disclosure. The parties agree that each party shall remain the exclusive owner of its own respective Confidential Information disclosed hereunder and all patent, copyright, trade secret, trademark and other intellectual property rights therein. Each party shall, upon the request of the other party, return all tangible or intangible manifestations of Confidential Information received pursuant to this Agreement (and all copies and reproductions thereof), provided the other party may retain one copy in a secure location for the purpose of evidencing compliance with this Agreement.

19. **Indemnity.** Client shall defend, indemnify and hold harmless Company, its subsidiaries, affiliates, officers, directors, agents, employees and assigns, from and against any and all Losses suffered or incurred by them in connection with a third party claim arising out of (i) Client's breach of this Agreement, (ii) Client's use of the Deliverables or (iii) Client's failure to comply with laws, rules, regulations or professional standards. Company shall defend, indemnify and hold harmless Client, its subsidiaries, affiliates, officers, directors, agents, employees and assigns, from and against any and all Losses suffered or incurred by them in connection with a third party claim arising out of (i) breach of applicable law Agreement, (ii) its gross negligence or willful misconduct; (iii) Client's failure to comply with laws, rules, regulations or professional standards.
20. **Mechanics of Indemnity.** The indemnifying party's obligations are conditioned upon the indemnified party: (i) giving the indemnifying party prompt written notice of any claim, action, suit or proceeding for which the indemnified party is seeking indemnity; (ii) granting control of the defense and settlement to the indemnifying party; and (iii) reasonably cooperating with the indemnifying party at the indemnifying party's expense.
21. **LIMITATION OF LIABILITY.** NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THIS AGREEMENT, COMPANY AND ITS SHAREHOLDERS, AFFILIATES, DIRECTORS, MANAGERS, EMPLOYEES OR OTHER REPRESENTATIVES SHALL NOT BE LIABLE TO CLIENT, AUTHORIZED USERS OR ANY THIRD PARTY FOR ANY INDIRECT, INCIDENTAL, SPECIAL, OR CONSEQUENTIAL DAMAGES (INCLUDING ATTORNEYS' FEES OR LOST PROFITS) THAT RESULT FROM OR ARE

RELATED TO THIS AGREEMENT, INCLUDING BUT NOT LIMITED TO, PERSONAL INJURY, PAIN AND SUFFERING, EMOTIONAL DISTRESS, LOSS OF REVENUE, LOSS OF PROFITS, LOSS OF BUSINESS OR ANTICIPATED SAVINGS, LOSS OF USE, LOSS OF GOODWILL, LOSS OF DATA, DELAY OR INTERRUPTION IN OPERATION OR TRANSMISSION COMMUNICATION FAILURE, LOSS OF CONNECTIVITY, NETWORK OR SYSTEM OUTAGE INTERRUPTION, UNAVAILABILITY OF OR OPERATION IN COMBINATION WITH A THIRD PARTY NETWORK OR SYSTEM AND WHETHER CAUSED BY TORT (INCLUDING NEGLIGENCE), BREACH OF CONTRACT OR OTHERWISE, EVEN IF FORESEEABLE, EVEN IF COMPANY HAS BEEN INFORMED OF THE POSSIBILITY OF SUCH DAMAGES. IN ANY EVENT, COMPANY'S AGGREGATE LIABILITY TO CLIENT FOR DAMAGES, COSTS, AND EXPENSES SHALL NOT EXCEED THE AMOUNTS RECEIVED BY COMPANY FROM CLIENT IN THE TWELVE MONTHS PRECEDING THE EVENT GIVING RISE TO SUCH DAMAGES. The provisions of this Section 21 allocate the risks under this Agreement between Company and Client. The parties agree that the limitations of liability set forth in this Section 21 shall survive and continue in full force and effect despite any failure of consideration or of an exclusive remedy. The parties acknowledge that the fees have been set and the Agreement entered into in reliance upon these limitations of liability and that all such limitations form an essential basis of the bargain between the parties.

22. **Relationship of the Parties.** The parties are independent contractors. This Agreement does not create a partnership, franchise, joint venture, agency, fiduciary or employment relationship between the parties. Each party will be solely responsible for payment of all compensation owed to its employees, as well as all employment-related taxes.
23. **Waiver.** The waiver by either party of a breach of any provision of this Agreement will not operate or be interpreted as a waiver of any other or subsequent breach.
24. **Severability.** If any provision of this Agreement is held to be invalid or unenforceable for any reason, it shall be deemed omitted and the remaining provisions will continue in full force without being impaired or invalidated in any way. The Parties agree to replace any invalid provision with a valid provision that most closely approximates the intent and economic effect of the invalid provision.
25. **Notices.** All notices, approvals or waivers required to be given under the terms of this Agreement (other than routine operational communications), shall be in writing, and if to Client shall be sent to the Client's address that appears on an applicable Order Form, and if sent to Company, shall be sent to: Glooko AB,

Nellickevägen 20, 412 63 Gothenburg, Sweden, Attn: Legal Department. All notices, approvals or waivers shall be sent via one of the following methods, and shall be deemed to have been received: (i) on the day given delivered by hand (securing a receipt evidencing such delivery); or (ii) on the second day after such notice is sent by a nationally recognized overnight or two (2) day air courier service, full delivery cost paid; or (iii) on the fifth day after such notice was mailed, registered mail, prepaid, return receipt requested.

26. **Governing Law and Dispute Settlement.** This Agreement shall be governed by and construed in accordance with the substantive laws of Sweden, without regard to the choice of law provisions thereof. The United Nations Convention on Contracts for the International Sale of Goods shall not apply to this Agreement.

Any contract dispute or claim arising out of, or in connection with, this Agreement shall be finally settled by arbitration administered by the Arbitration Institute of the Stockholm Chamber of Commerce. The Rules for Expedited Arbitrations shall apply where the amount in dispute does not exceed EUR 100,000. Where the amount in dispute exceeds EUR 100,000 the Arbitration Rules shall apply. The Arbitral Tribunal shall be composed of a sole arbitrator where the amount in dispute exceeds EUR 100,000 but not EUR 1,000,000. Where the amount in dispute exceeds EUR 1,000,000, the Arbitral Tribunal shall be composed of three arbitrators. The amount in dispute includes the claims made in the Request for Arbitration and any counterclaims made in the Answer to the Request for Arbitration. The seat of arbitration shall be Stockholm, Sweden. The language to be used in the arbitral proceedings shall be English. The proceedings and the documents emanating from the proceedings, the award included, shall be kept confidential. The parties agree that, any provision of applicable law notwithstanding, they will not request, and the arbitrator shall have no authority to award punitive or exemplary damages against any party. In the event that any arbitration, action or proceeding is brought in connection with this Agreement, the prevailing party shall be entitled to recover its costs and reasonable attorneys' fees. Notwithstanding the foregoing, nothing herein shall preclude either party from seeking injunctive relief in any state or federal court of competent jurisdiction without first complying with the arbitration provisions of this Section 26.

27. **Survival.** Company and Client's respective obligations hereunder which by their nature would continue beyond the termination or expiration of this Agreement shall survive.



28. **Assignment.** This Agreement shall be binding upon the parties' respective successors and permitted assigns. Neither party may assign any of its rights or obligations under this Agreement without the prior written consent of the other party, except that Company may assign its rights and obligations without consent to a successor or party which has purchased all or substantially all of its relevant assets or business.
29. **Force Majeure.** Neither party will be liable to the other for failure to meet its obligations under this Agreement where such failure is caused by events beyond its reasonable control such as fire, failure of communications networks, riots, civil disturbances, embargos, storms, acts of terrorism, pestilence, war, floods, tsunamis, earthquakes or other acts of God.
30. **Updates.** Company may modify all or any parts of the Agreement, for example, to reflect changes to the law or changes to Company's services or Software, in its sole discretion from time to time. Client should look at the Agreement regularly. Company will post notice of any modifications to these terms on its website(s). By continuing to use or access the services or Software after the revisions are in effect, Client agrees to be bound by the revised Agreement and related terms respecting the Deliverables.
31. **Entire Agreement.** This Agreement, including all additional policies and documentation appearing herein via website hyperlinks, and any subsequent document duly executed by both parties which terms is expressly incorporated into this Agreement by reference into this Agreement, constitutes the entire agreement between the parties. This Agreement supersedes all prior and contemporaneous agreements, understandings, negotiations and discussions, whether oral or written, and there are no warranties, representations and/or agreements among the parties in conjunction with the subject matter hereof except as set forth in this Agreement.

### **HARDWARE TERMS AND CONDITIONS**

1. **Retention of title.** Company shall, and hereby does retain, full legal title to and beneficial ownership of the Hardware notwithstanding the delivery to and possession and use of such Hardware by the Client hereunder. The Client shall in no event be permitted to resell, lease, rent, distribute, transport from its premises or in any other way make any parts of, or the entire Hardware, available to any third parties.
2. **Use of Hardware.** The use of the Hardware is subject to the availability and the operational limitations of the requisite equipment and associated facilities. For Hardware that is dependent upon cellular reception such Hardware may not work or may work partially in certain areas where reception is low.
3. **Remedy in case of defect Hardware.** In case of a Hardware being defect, Company's sole and exclusive liability, and Client's sole and exclusive remedy, shall be repair and/or replacement of the Hardware, as determined by Company in its sole discretion. Company shall be responsible for all shipping costs incurred in connection with returns or replacements under this section. This remedy is personal to the Client. This remedy is conditioned on Client: (i) promptly notifying Company of the defect; and (ii) complying with any Company instructions or requests regarding Company's repair or replacement of the Company Hardware, when applicable. The right to remedy according to this section does not cover:
  1. Use of the Hardware outside of or in contradiction to the instructions provided by Company;
  2. Defects or damage from improper installation, operation, testing, maintenance, adjustment, or service, repair or modification by Client or a third party;
  3. Acts of God, accident, negligent use or misuse, abuse, cosmetic damage resulting from normal use, or any other cause other than ordinary use;
  4. Improper storage or operating environment, excessive or inadequate heating or air conditioning, electrical power failures, surges, electrical or electromechanical stress, water damage or other irregularities;
  5. the use of the Hardware in conjunction with accessories, ancillary products, and peripheral equipment or unauthorized third party software or software drivers;

6. Hardware which has been taken apart physically or which has had any of its software accessed in an unauthorized manner.
  
4. **DISCLAIMER OF WARRANTIES.** EXCEPT AS SET FORTH IN SECTION 3 ABOVE, COMPANY MAKES NO WARRANTIES REGARDING THE HARDWARE, AND COMPANY HEREBY DISCLAIMS ALL WARRANTIES, EXPRESS AND IMPLIED, WITH RESPECT TO THE HARDWARE, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NONINFRINGEMENT, COMPATIBILITY OR SECURITY. COMPANY DOES NOT WARRANT THAT ACCESS TO OR USE OF THE HARDWARE WILL BE UNINTERRUPTED OR ERROR-FREE, THAT ALL DEFECTS AND ERRORS IN THE HARDWARE WILL BE CORRECTED, OR THAT THE HARDWARE WILL MEET ANY PARTICULAR CRITERIA OF PERFORMANCE OR QUALITY. COMPANY DOES NOT PROVIDE ANY WARRANTIES REGARDING THE ACCURACY OF DATA OR INFORMATION PROVIDED BY THIRD PARTIES. THE HARDWARE IS NOT DESIGNED, MANUFACTURED, DELIVERED OR INTENDED FOR ANY USE WHERE FAILURE COULD LEAD DIRECTLY TO DEATH, PERSONAL INJURY, OR SEVERE PHYSICAL OR ENVIRONMENTAL DAMAGE. CLIENT ASSUMES RESPONSIBILITY FOR THEIR SELECTION TO ACHIEVE ITS INTENDED RESULTS, AND FOR THEIR INSTALLATION, USE, AND RESULTS OBTAINED THEREFROM.

### SOFTWARE TERMS AND CONDITIONS

- 1. License Grant.** Company hereby grants to Client a non-transferable, non-exclusive, revocable, limited, right and license during the Term of the Agreement, to allow its Authorized Users (as defined below) to access and use, over public and private networks, the Company provided software modules purchased by Client (the “Software”) in an applicable Order Form, strictly for the internal business purposes of its medical practice. Company owns and retains all right, title and interest in and to the Software. The Software is provided to Client for use only as expressly set forth in this Agreement, and Client will not use the Software in whole or in part for any other use or purpose whatsoever.
- 2. Permitted Medical Use.** Client agrees that only appropriately licensed medical professionals that participate in Client’s medical practice (each, a “Physician”) shall assess, diagnose, and recommend treatment for each person seeking health care and who has a patient-physician relationship with a Physician in accordance with the applicable requirements of laws, regulations and licensure boards (each, a “Patient”). Client shall take all actions required to ensure that its use of the Software is in compliance with all applicable laws, rules, regulations and professional standards. Neither party shall interfere with, control, or otherwise influence the physician-patient relationship established between a Physician and a Patient. COMPANY SHALL HAVE NO OBLIGATION, RESPONSIBILITY OR LIABILITY FOR ANY PHYSICIAN’S PROVISION OF PROFESSIONAL SERVICES.
- 3. Authorized Users.** Client shall permit authorized users for whom it has purchased access for in an Order Form to access and use the features and functions of the Software it has purchased in this Agreement (each, an “Authorized User”). Authorized User’s may be any of Client’s employed Physicians, Patient, or any provider of medical or health services, including, but not limited to a diabetes educator, a physician assistant, nurse, physical therapist, psychotherapist, or any third party contractor employed, paid or retained by Client whom it permits to access and use the Software on its behalf. Client shall be solely responsible for verifying the identity and authenticity of all if its Authorized Users. For any of Client’s third-party Authorized Users, it shall ensure that such third parties are expressly bound by written agreement no less protective of Company than the terms herein before permitting such third parties to access and use the Software. Client shall take all reasonable precautions to ensure that the Software is utilized by its Authorized Users in a manner consistent with applicable ethical and legal requirements. Each Authorized User shall create a unique user identification and login credential for

it to access and use the Software (the “User ID”). User IDs shall not be shared or used by more than one Authorized User at a time. Client is solely responsible for ensuring its Authorized Users maintain the confidentiality of log-in accounts and passwords, and credentials. Company shall not be liable for any activities undertaken by anyone using any Authorized User’s log-in accounts, passwords or credentials. Client shall immediately notify Company of any unauthorized use of the log-in accounts, passwords or credentials known to Client.

4. **Patient Use.** Patients can subscribe to use the Software directly and upload certain data from devices used to monitor and manage their diabetes that are compatible with the Software (“Approved Devices”). In their use of the Software, the Patient has control of their personally identifiable information, personal data and personal health information that they upload into the Software, including information from any Approved Device used to monitor glucose levels or any other device or data source (the “Patient Data”). Patient shall have the ability to control which third parties they give their Patient Data access to.
5. **Restrictions.** Client shall not, and shall not permit or enable any third party to:
  1. copy, modify, decompile, disable, impair, destroy, disassemble, reverse engineer or attempt to reconstruct, identify or discover any source code, underlying ideas, underlying user interface techniques or algorithms of the Software by any means, or disclose any of the foregoing;
  2. except as expressly set forth in this Agreement, provide, host, rent, lease, lend, or use the Software for timesharing, subscription, or similar purposes;
  3. sublicense, resell, transfer or assign the Deliverables or any of the rights or licenses granted under this Agreement;
  4. use any data mining or similar data gathering and extraction methods in connection with the Software;
  5. use the Application Services for storage, possession, or transmission of any information, the possession, creation or transmission of which violates any applicable law, including without limitation, those laws regarding stolen materials, obscene materials or child pornography;

6. upload or share any content that is unlawful, harmful, threatening, abusive, tortious, defamatory, libelous, vulgar, lewd, profane, invasive of another's privacy, or hateful;
  7. upload, transmit, store, or make available any content or code that contains any viruses, malicious code, malware, or any components designed to harm or limit the functionality of the Software;
  8. transmit content over the Software that infringes upon or misappropriates the Intellectual Property Rights or privacy rights of any third party ("Intellectual Property Rights" means copyright, moral rights, trademark, trade dress, patent, trade secret, unfair competition, right of privacy, right of publicity, and any other proprietary rights);
  9. enable or allow others to use the Services or Software using its account information;
  10. access or attempt to access the Services or Software by any means other than the interface Company provides or authorizes; or
  11. circumvent any access or use restrictions put into place to prevent certain uses of the Software.
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6. **Not for Emergency Use.** Client understands the Software is intended to assist it in streamlining its operations of a medical practice and that the Software is not designed for use in any medical emergencies. Client shall inform its Patients that the Service is not designed for emergency use.
  7. **No Patient Referrals.** Nothing in this Agreement shall be construed as an offer for payment by one party to the other party or any affiliate of the other party of any cash or other remuneration, whether directly or indirectly, overtly or covertly, for any Patient referrals or for recommending or for arranging, purchasing, leasing or ordering any item or service.
  8. **Restrictions on Sharing Data.** Client shall not: (i) publicly share or publish reports or analysis that includes Patient Data or any non-public data respecting the Approved Devices (or any set of metadata contained therein); (ii) commercialize any product offerings utilizing the Patient Data and/or any non-public data respecting the Approved Devices (or any data contained therein); or (iii) sublicense or share the Patient Data or any non-public data respecting the Approved Devices (or any data contained therein) with any other individual or entity whatsoever.

9. **Third Party Links.** Company may place links, icons or displays within the Software. The inclusion of a link does not imply endorsement of the linked site by Company. Company does not take responsibility for the content or information contained on those other sites, and does not exert any editorial or other control over those other sites. Company does not take responsibility for the privacy policies and practices of these third-party links. Company disclaims any warranty or liability for damage or loss resulting from Client's use of any non-Company content or resources, including any external hyperlinks, advertisements, promotions, referrals, websites, or any other external resources which are found on or made available through the Software. Company disclaims any warranties or liability for the quality, accuracy, currency, reliability, availability, or legality of such non-Company content.
10. **IP Infringement Indemnity.** Company shall defend, indemnify and hold harmless Client, its subsidiaries, affiliates, officers, directors, agents, employees and assigns, from and against any and all claims, suits, proceedings, losses, damages, liabilities, costs and expenses (including, without limitation, reasonable attorneys' fees) (collectively, "Losses") suffered or incurred by them in connection with a third party claim arising out of any actual or threatened claim that the Application Services infringes upon or misappropriates any copyright, patent, trademark, trade secret, or other proprietary or other rights of any third party. Company shall have no obligation to indemnify Client to the extent the alleged infringement arises out of (i) the use of the Application Services in combination with other data products, processes or materials not provided by Company and such infringement would not have occurred but for Client's combination; or (ii) the Client Content. Should the Application Services as used by Client become, or in Company's opinion be likely to become, the subject of an infringement claim, Company shall at its option and sole expense either: (i) procure for Client the right to continue to use the Application Services as contemplated hereunder, or (ii) modify the Application Services to eliminate any such claim that might result from its use hereunder or (iii) replace the Application Services with an equally suitable, compatible and functionally equivalent non-infringing service at no additional charge to Client. If none of these options is reasonably available to Company, then this Agreement may be terminated at the option of either party hereto without further obligation or liability on the part of either party hereto except that Company agrees to promptly refund to Client the pro-rata portion of any unused fees prepaid by Client.

11. **Limitation.** Company assumes no liability, and shall have no liability, for any infringement claim based on (i) Client's access to and/or use of the Services following notice of an infringement claim; (ii) any modification of the Services by Client or at its direction; (iii) Client's combination of the Services with third party programs, services, data, hardware, or other materials; or (iv) any trademark or copyright infringement involving any marking or branding not applied by Company or involving any marking or branding applied at Client's request.
12. **Open Source Software.** Certain items of software may be provided to Client with the Services and are subject to "open source" or "free software" licenses ("Open Source Software"). Some of the Open Source Software is owned by third parties. The Open Source Software is not subject to the terms and conditions of the Agreement. Instead, each item of Open Source Software is licensed under the terms of the end-user license that accompanies such Open Source Software. Nothing in this Agreement limits Client's rights under, or grants Client rights that supersede, the terms and conditions of any applicable end user license for the Open Source Software. If required by any license for particular Open Source Software, Company makes such Open Source Software, and Company's modifications to that Open Source Software, available by written request.
13. **License to Client Data.** Client hereby grants to Company a worldwide, non-exclusive, fully paid-up license to use, copy, modify, enhance, display, publish, distribute, otherwise use the text, pictures, sound, graphics, video and other data transmitted by Client into the Software in its use of the Software (the "Client Content") in any manner reasonably necessary for Company's provision of the Software and related services to Client. Client represents and warrants that it has all rights necessary to grant Company the foregoing license. Client represents and warrants that Client owns or all right, title and interest in and to the Client Content or has a license granting it the rights necessary to permit it to grant the foregoing license. If Client licenses any third party content for its use of the Software, it shall not use such content in its use of the Software without sufficient rights to use such content in the Software. At any time during the Term Company may request a copy of the license for the third party content being used by Client in its use of the Software in order to validate Client's rights for such use.
14. **License to Analytical Data.** Client agrees that Company will have the right to anonymize and aggregate data, and that aggregate/anonymous data is Company technology, which Company may use for its own business purpose during or after the term of this Agreement as set forth in the Company Privacy Notice ([www.glooko.com/privacy](http://www.glooko.com/privacy)), including without limitation, to develop and



improve Company's products and services and to create and distribute reports and other materials. For avoidance of doubt, anonymized data is data that has been de-identified into a form that does not identify Client, Authorized Users, or Patients, or other individually identifiable data subjects, and that meets de-identification criteria as specified in applicable regulations such as the Health Insurance Portability and Accountability Act (HIPAA) (45 CFR 164.514(a)-(c)), EU General Data Privacy Regulation (GDPR), and the California Consumer Privacy Act (CCPA).

15. **WARRANTY.** COMPANY WARRANTS THAT THE SOFTWARE WILL MATERIALLY CONFORM TO ITS THEN CURRENT FUNCTIONALITY DESCRIPTIONS.
16. **DISCLAIMER OF WARRANTIES.** EXCEPT AS SET FORTH IN SECTION 15 ABOVE, COMPANY MAKES NO WARRANTIES REGARDING THE SOFTWARE, AND COMPANY HEREBY DISCLAIMS ALL WARRANTIES, EXPRESS AND IMPLIED, STATUTORY OR OTHERWISE WITH RESPECT TO THE SERVICES, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NONINFRINGEMENT, COMPATIBILITY, AND ANY WARRANTIES ARISING OUT OF ANY COURSE OF DEALING OR USAGE OF TRADE, AND ANY CONDITIONS OF QUALITY, AVAILABILITY, RELIABILITY, BUGS OR ERRORS. COMPANY DOES NOT WARRANT THAT ACCESS TO OR USE OF THE SOFTWARE WILL BE UNINTERRUPTED OR ERROR-FREE, THAT ALL DEFECTS AND ERRORS IN THE SOFTWARE WILL BE CORRECTED, OR THAT THE SOFTWARE WILL MEET ANY PARTICULAR CRITERIA OF PERFORMANCE OR QUALITY. COMPANY DOES NOT PROVIDE ANY WARRANTIES REGARDING THE ACCURACY OF DATA OR INFORMATION PROVIDED BY THIRD PARTIES. SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF CERTAIN WARRANTIES AND CONDITIONS, THEREFORE SOME OF THE ABOVE EXCLUSIONS MAY NOT APPLY IF CLIENT IS LOCATED IN SUCH A JURISDICTION.

**SUPPORT AND PROFESSIONAL SERVICES TERMS AND CONDITIONS**

- 1. Support Services.** In support of its use of the Software purchased by it, Client shall receive technical support for its Authorized Users via phone, email, or other systems during Company's regular business hours, in accordance with Company's then-current technical support policies. Company's support information is available at <https://support.diasend.com/hc/en-us>, as may be amended and updated by Company from time to time in its sole discretion. It is recommended that Authorized Users complete any purchased training prior to their use of the Software. Upon Client's request, Company may provide additional technical support at Company's then-current hourly rates, subject to the execution of an additional Order Form.
- 2. Professional Services.** In addition to the regular support services Client receives as a part of its Software purchase, Client may purchase additional training, consulting, data migration, conversion, integration, implementation or other services from Company to support its use of the Software (collectively, "Professional Services"), as specified in a subsequent statement of work agreement and agreed to by both parties. All Professional Services will be performed by individuals with levels of knowledge, skill and experience commensurate with the requirements of this Agreement, and will be performed in a timely, professional and workmanlike manner in accordance with generally accepted industry practices and standards.

## DATA PROCESSING AGREEMENT

This Data Processing Agreement (“DPA”) forms a part of the Agreement and applies when the Company is processing Personal Data on behalf of the Client.

### WHEREAS

(A) The Client wishes to subcontract certain services from the Company, which imply the Processing of Personal Data.

(B) The parties wish to lay down their rights and obligations and seek to implement a data processing agreement that complies with the requirements of the current legal framework in relation to data processing and with the Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (the General Data Protection Regulation (the “GDPR”)).

(C) The Company provides sufficient guarantees to implement appropriate technical and organizational measures to ensure compliance with Data Protection Laws when Processing Personal Data on behalf of the Client. IT IS AGREED AS FOLLOWS:

### 1. Definitions and Interpretation

1.1 Unless otherwise defined herein, capitalized terms and expressions used in this DPA shall have the following meaning:

1.1.1 “DPA” means this Data Processing Agreement;

1.1.2 “Client Personal Data” means any Personal Data Processed by the Company on behalf of the Client pursuant to or in connection with the Agreement;

1.1.3 “Data Protection Laws” means EU Data Protection Laws and, to the extent applicable, the data protection or privacy laws of any other country;

1.1.4 “EEA” means the European Economic Area;

1.1.5 “EU Data Protection Laws” means EU Directive 95/46/EC, as transposed into domestic legislation of each Member State and as amended, replaced or superseded from time to time, including by the GDPR and laws implementing or supplementing the GDPR;

1.1.10 “Sub-Processor” means any person or entity appointed by or on behalf of the Company to process Client Personal Data;

1.2 The terms “Data Subject”, “Controller”, “Personal Data”, “Personal Data Breach”, “Processing” and “Processor” shall have the same meaning as in the GDPR.

## **2. Processing of Client Personal Data**

2.1 The Company shall:

2.1.1 comply with all applicable Data Protection Laws in the Processing of Client Personal Data in the jurisdiction of the Controller; and

2.1.2 process the Client Personal Data in accordance with lawful instructions which are given by the Client in the Agreement and this DPA. The Company shall notify the Client if the Company is of the view that an instruction given by the Client would be in breach of EU Data Protection Laws, unless the Company is prohibited from notifying the Client according to applicable laws and/or regulations.

2.2 Notwithstanding what is stated in Section 2.1 above, the Company may Process the Client Personal Data to the extent it is necessary in order to comply with legal requirements under applicable laws or regulations which the Company is subject.

2.3 The Client shall ensure that it is entitled to transfer the relevant Client Personal Data to the Company so that the Company may lawfully Process the Client Personal Data in accordance with the Agreement and this DPA.

## **3. The Company’s Personnel**

The Company shall take reasonable steps to ensure the reliability of any employee, agent or contractor of the Company who may have access to the Client Personal Data, ensuring in each case that access is strictly limited to those individuals who need to know / access the relevant Client Personal Data, as strictly necessary for the purposes of the Agreement, and to comply with applicable EU Data Protection Laws in the context of that individual’s duties to the the Client, ensuring that all such individuals are subject to confidentiality undertakings or professional or statutory obligations of confidentiality.

## **4. Security**

Taking into account the state of the art, the costs of implementation and the nature, scope, context and purposes of Processing as well as the risk of varying likelihood and severity for the rights and freedoms of natural persons, the Company shall in relation to the Client Personal Data implement appropriate technical and organizational measures to

ensure a level of security appropriate to that risk, including, as appropriate, the measures referred to in Article 32(1) of the GDPR.

## **5. Sub-processing**

5.1 The Client hereby authorise the Company to use the Sub-Processor(s) as indicated in Section 13 below in this DPA. If the Company wishes to use a new Sub-Processor, the Company must inform the Client who can approve or reject the use of such Sub-Processor (such approval shall not be unreasonable withheld). If the Client does not reject the use of such Sub-Processor within ten (10) days, the Client shall be deemed to have accepted the appointment of the Sub-Processor.

5.2 In case the Company uses a Sub-Processor, the Company shall enter into a data protection agreement with such engaged Sub-Processor with similar data protection obligations as this DPA.

5.3 Where a Sub-Processor fails to fulfil its data protections obligations concerning Client Personal Data, the Company shall remain fully liable to the Client for the performance of the Sub-Processor's obligations.

5.4 An updated list of Sub-Processors can always be requested. Requests can be directed to [privacy@glooko.com](mailto:privacy@glooko.com).

## **6. Data Subject Rights**

6.1 The Company shall:

6.1.1 without undue delay notify the Client if it receives a request from a Data Subject under any Data Protection Law in respect of Client Personal Data;

6.1.2 ensure that it does not respond to that request except on the documented instructions of the Client or as required by applicable laws or regulations to which the Company is subject, in which case the Company shall, to the extent permitted by applicable laws and regulations, inform the Client of that legal requirement before the Company responds to the request; and

6.1.3 assist the Client in order for the Client to fulfil its obligations to respond to Data Subject rights requests.

## **7. Personal Data Breach**

7.1 The Company shall notify the Client without undue delay upon the Company becoming aware of a Personal Data Breach affecting Client Personal Data, providing the

Client with sufficient information to allow the Client to meet any obligations to report or inform Data Subjects of the Personal Data Breach under the Data Protection Laws.

7.2 The Company shall co-operate with the Client and take reasonable commercial steps as are directed by the Client to assist in the investigation, mitigation and remediation of each such Personal Data Breach.

## **8. Data Protection Impact Assessment and Prior Consultation**

The Company shall provide reasonable assistance to the Client with any data protection impact assessments, and prior consultations with supervising authorities or other competent data protection authorities, which the Client reasonably considers to be required by article 35 or 36 of the GDPR or equivalent provisions of any other Data Protection Law, in each case solely in relation to Processing of Client Personal Data.

## **9. Deletion or return of Client Personal Data**

The Company shall promptly and in any event within 10 business days of the termination of the Agreement and/or this DPA, provided that the Company is not required by applicable law, regulation or Data Protection Laws to retain the Client Personal Data, (i) return the Client Personal Data to the Client, or (ii) delete the Client Personal Data and procure the deletion of all copies of Client Personal Data. For clarification purposes, the irreversible anonymization and/or aggregation of Client Personal Data shall be considered as a deletion of the Client Personal Data, provided that the original datasets containing Client Personal Data are deleted.

## **10. Information rights**

The Company shall make available to the Client on request all information necessary to demonstrate compliance with this DPA.

## **11. Data Transfer**

If Client Personal Data is transferred from a country within the EEA to a country outside the EEA, the Company shall ensure that the Client Personal Data is adequately protected. To achieve this, the parties shall, unless agreed otherwise, rely on EU approved standard contractual clauses for the transfer of Client Personal Data and/or the Privacy Shield, whichever is applicable. For the avoidance of doubt, Client Personal Data may not be transferred outside of the EEA unless permitted according to EU Data Protection Laws.

**12. Description and Instruction to the DPA**

Categories of Data Subjects	<ul style="list-style-type: none"> <li>• Client employees and consultants using the Software</li> <li>• Patients</li> </ul>
Categories of Personal Data (Client employees and consultants using the Software)	<ul style="list-style-type: none"> <li>• General information (name)</li> <li>• Contact information (email address, telephone number)</li> <li>• Usage information (username, password, access rights, audit logs)</li> </ul>
Categories of Personal Data (Patients)	<ul style="list-style-type: none"> <li>• General information (name, date of birth, gender)</li> <li>• Contact information (postal address, email address, telephone number)</li> <li>• Usage information (username, password)</li> <li>• Health information (diabetes type, year of diabetes diagnoses, estimated partus, target range, weight, height, treatments)</li> <li>• Device information (insulin pump, glucose meter and insulin pen serial number(s), doses, carbohydrates, settings, alarms)</li> </ul>
The nature and purpose(s) of the Processing	The Personal data will be Processed to enable the Client and patients to use the Company's services.
Retention of Personal Data	The Processing is not time-limited and shall be performed for the duration of this DPA.

**13. Sub-Processors**

<b>Name</b>	<b>Service</b>	<b>Location</b>
Amazon Data Services Ireland Ltd.	Cloud Service Provider	Ireland
Cegedim SA	Cloud Service Provider	France

Cegedim SA is only used for Clients subject to French privacy and health legislation.