

## ICANotes TERMS OF SERVICE

**Date of Last Revision: June 24, 2025**

### **Welcome to ICANotes!**

ICANotes LLC ("ICANotes," "we," "us," "our") provides its services (described below) to you through its website located at [www.icanotes.com](http://www.icanotes.com) (the "Site") and through its related services (collectively, such services, including any new features and applications, and the Site, the "Service(s)"), subject to the following Terms of Service (as amended from time to time, the "Terms of Service"). We reserve the right, at our sole discretion, to change or modify portions of these Terms of Service at any time. If we do this, we will post the changes on this page and will indicate at the top of this page the date these terms were last revised. When appropriate, we will also notify you, either through the Services user interface, in an email notification or through other reasonable means. Any such changes will become effective no earlier than fourteen (14) days after they are posted, except that changes addressing new functions of the Services or changes made for legal reasons will be effective immediately. Your continued use of the Service after the date any such changes become effective constitutes your acceptance of the new Terms of Service. "You" means, in the case of an individual accepting this Terms of Service on his or her own behalf, such individual, or in the case of an individual accepting this Terms of Service on behalf of a company or other legal entity, the company or other legal entity for which such individual is accepting this Terms of Service, and affiliates of that company or entity (for so long as they remain affiliates) that have entered into orders. The person accepting these Terms of Service on behalf of a company represents that s/he is duly authorized by all necessary and appropriate corporate action to enter these Terms of Service on behalf of such contracting entity.

***PLEASE READ THESE TERMS OF SERVICE CAREFULLY, AS THEY CONTAIN AN AGREEMENT TO ARBITRATE AND OTHER IMPORTANT INFORMATION REGARDING YOUR LEGAL RIGHTS, REMEDIES, AND OBLIGATIONS. THE AGREEMENT TO ARBITRATE REQUIRES (WITH LIMITED EXCEPTION) THAT YOU SUBMIT CLAIMS YOU HAVE AGAINST US TO BINDING AND FINAL ARBITRATION, AND FURTHER (1) YOU WILL ONLY BE PERMITTED TO PURSUE CLAIMS AGAINST ICANOTES ON AN INDIVIDUAL BASIS, NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY CLASS OR REPRESENTATIVE ACTION OR PROCEEDING, (2) YOU WILL ONLY BE PERMITTED TO SEEK RELIEF (INCLUDING MONETARY, INJUNCTIVE, AND DECLARATORY RELIEF) ON AN INDIVIDUAL BASIS, AND (3) YOU MAY NOT BE ABLE TO HAVE ANY CLAIMS YOU HAVE AGAINST US RESOLVED BY A JURY OR IN A COURT OF LAW.***

In addition, when using certain services, you will be subject to any additional terms applicable to such services that may be posted on the Service from time to time, including, without limitation, the Privacy Policy located at <https://www.icanotes.com/privacy-policy/>. All such terms are hereby incorporated by reference into these Terms of Service.

For purposes of complying with the requirements of the Health Insurance Portability and Accountability Act of 1996, and any implementing regulations, as amended ("HIPAA"), you and ICANotes agree to be bound by the terms of the Business Associate Agreement located at [https://upload.icanotes.com/files/ICANotes\\_BAA\\_2019.pdf](https://upload.icanotes.com/files/ICANotes_BAA_2019.pdf) and which is hereby incorporated into these Terms of Service. If any provision of these Terms of Service conflicts with the Business Associate Agreement with respect to the treatment of Protected Health Information, the terms of the Business Associate Agreement will prevail.

### **Access and Use of the Service**

**Services Description:** The Service is designed to provide practice management and electronic health records services.

**Your Registration Obligations:** You may be required to register with ICANotes in order to access and use certain features of the Service. If you choose to register for the Service, you agree to provide and maintain true, accurate, current and complete information about yourself as prompted by the Service's registration form. Registration data and certain other information about you are governed by our Privacy Policy. If you are under 13 years of age, you are not authorized to use the Service, with or without registering. In addition, if you are under 18 years old, you may use the Service, with or without registering, only with the approval of your parent or guardian.

**Member Account, Password and Security:** You are responsible for maintaining the confidentiality of your password and account, if any, and are fully responsible for any and all activities that occur under your password or account. You agree to (a) immediately notify ICANotes of any unauthorized use of your password or account or any other breach of security, and (b) ensure that you exit from your account at the end of each session when accessing the Service. ICANotes will not be liable for any loss or damage arising from your failure to comply with this Section. Only one person may use each account.

**Modifications to Service:** ICANotes reserves the right to modify or discontinue, temporarily or permanently, the Service (or any part thereof) with or without notice. You agree that ICANotes will not be liable to you or to any third party for any modification, suspension or discontinuance of the Service.

**General Practices Regarding Use and Storage:** You acknowledge that ICANotes may establish general practices and limits concerning use of the Service, including without limitation the maximum period of time that data or other content will be retained by the Service and the maximum storage space that will be allotted on ICANotes' servers on your behalf. You agree that ICANotes has no responsibility or liability for the deletion or failure to store any data or other content maintained or uploaded by the Service. You acknowledge that ICANotes reserves the right to terminate accounts that are inactive for an extended period of time. You further acknowledge that ICANotes reserves the right to change these general practices and limits at any time, in its sole discretion, with or without notice.

#### **Information Blocking Compliance**

**Policy:** ICANotes, a certified 2015 Edition Electronic Health Record company, is an Actor as defined by the 21st Century Cures Act and does not engage in Information Blocking.

ICANotes does not engage in any Practices that prevent or discourage the access, exchange or use of electronic health information (EHI) that are considered Information Blocking including those referred to in the ONC Information Blocking Definition found at: <https://www.healthit.gov/topic/information-blocking>

#### **Definitions:**

##### **Electronic Health Information (EHI)**

In the Final Rule, the ONC aligned the definition of EHI with HIPAA's electronic protected health information (EPHI). This would be designated in a record set. Thus, electronic health information (EHI) is defined in 45 CFR § 160.103 to the extent that it would be included in a designated record set as defined in 45 CFR § 164.501, regardless of whether the group of records are used or maintained by or for a covered entity as defined in 45 CFR § 160.103.

However, EHI shall not include:

1. *Psychotherapy notes* as defined in 45 CFR § 164.501 (i.e., notes recorded in any medium) by a healthcare provider who is a mental health professional documenting or analyzing the contents of conversation during a private counseling session or a group, joint, or family counseling session and that are separated from the rest of the individual's medical record); or
2. Information compiled in reasonable anticipation of, or for use in, a civil, criminal, or administrative action or proceeding.

Until October 6, 2022, EHI is limited to the EHI identified by the data elements represented in the United States Core Data for Interoperability standard adopted in 45 CFR § 170.213.

**Process:**

Any clinician participating in the MIPS program or Meaningful Use will have the Patient Portal and Direct Messaging features enabled upon beginning use of the ICANotes software. There is an extra charge for Direct Messaging connection via Kno2, an ICANotes partner.

Other clinicians not participating in those programs can request the Support department to help enable appropriate features if they are not turned on. All features/group and individual rules required for allowing access to patients can be managed by your practice; administration or users (depending on the feature).

A patient can request a record within the patient/client portal. This feature sends a record request message to the clinician and other designated person. The clinician can then take action and accept the records request and send the CCDA (Consolidated Clinical Document Architecture) to the patient/client portal. The clinician also has the means to decline the records request due to one of the exceptions listed below. A message can be created and sent to the patient. For technical reasons, the generation and delivery of the CCDA may take up to 24 hours to be delivered to the patient/client portal.

ICANotes Service Agreement does not prohibit any of the following features or processes from being enabled.

- Patient Portal - Patient records are available for customers to provide to their patients through the patient portal. No additional fee is required for use of the patient portal. Request to turn on the portal for a customer is done immediately upon contact with Support department. Documentation and help from the Support department on how to use patient portal is available.
- Direct Messaging - Patient records can be transmitted electronically from one provider to another provider through Direct Messaging via the vendor Kno2. A monthly fee is charged for the use of Direct Messaging. Request to turn on Direct Messaging for a customer is done immediately after fee is collected immediately. Documentation and help from the Support department on how to use Direct Messaging is available.
- Health Information Networks - Patient records can be transmitted through a Health Information Exchange if the HIE is integrated with ICANotes. Contact Support to find out if a particular HIE is connected and/or what is the process to connect.
- Cancellation of Service –Customers who leave ICANotes for another EHR are provided with their patient records in an electronic file in a timely fashion (no more than 5 business days) and with no restriction.

**Internal Training at ICANotes**

Training of ICANotes departments on Information Blocking takes place when hired and annually after that.

Updates are provided as needed throughout the year. Records of training provided will be kept as and if required by applicable law.

**Complaint Process**

A customer or other individual who believes ICANotes has engaged in Information Blocking can issue a complaint by submitting an email to [ticket@icanotes.com](mailto:ticket@icanotes.com). ICANotes will provide a response to the complaint as required by law.

**A full explanation of the Exceptions from the Office of the National Coordinator (ONC) for Health Information Technology can be found at:**

<https://www.healthit.gov/sites/default/files/cures/202003/InformationBlockingExceptions.pdf>

Clinicians should be aware of any State and Federal law that may override the Information Blocking rule.

### **Conditions of Use**

**User Conduct:** You are solely responsible for all code, video, images, information, data, text, software, music, sound, photographs, graphics, messages or other materials ("content") that you upload, post, publish or display (hereinafter, "upload") or email or otherwise use via the Service. The following are examples of the kind of content and/or use that is illegal or prohibited by ICANotes. ICANotes reserves the right to investigate and take appropriate legal action against anyone who, in ICANotes' sole discretion, violates this provision, including without limitation, removing the offending content from the Service, suspending or terminating the account of such violators and reporting you to the law enforcement authorities. You agree to not use the Service to:

- a) email or otherwise upload any content that (i) infringes any intellectual property or other proprietary rights of any party; (ii) you do not have a right to upload under any law or under contractual or fiduciary relationships; (iii) contains software viruses or any other computer code, files or programs designed to interrupt, destroy or limit the functionality of any computer software or hardware or telecommunications equipment; (iv) poses or creates a privacy or security risk to any person; (v) is unlawful, harmful, threatening, abusive, harassing, tortious, excessively violent, defamatory, vulgar, obscene, pornographic, libelous, invasive of another's privacy, hateful racially, ethnically or otherwise objectionable; or (vi) in the sole judgment of ICANotes, is objectionable or which restricts or inhibits any other person from using or enjoying the Service, or which may expose ICANotes or its users to any harm or liability of any type;
- b) interfere with or disrupt the Service or servers or networks connected to the Service, or disobey any requirements, procedures, policies or regulations of networks connected to the Service; or
- c) violate any applicable local, state, national or international law, or any regulations having the force of law;
- d) use the Service to develop a similar or competing product or service;
- e) impersonate any person or entity, or falsely state or otherwise misrepresent your affiliation with a person or entity;
- f) harvest or collect email addresses or other contact information of other users from the Service by electronic or other means for the purposes of sending unsolicited emails or other unsolicited communications;
- g) further or promote any criminal activity or enterprise or provide instructional information about illegal activities; or
- h) obtain or attempt to access or otherwise obtain any materials or information through any means not intentionally made available or provided for through the Service.

### **AI Features**

ICANotes has added new AI features to the Service. These are the Note Readability Enhancement Feature, which enhances the readability of the text you enter, and the Ambient Listening Feature, which uses a microphone to capture the patient and provider session, reduces user typing, transcribes the audio, and transforms it into clinical note structure utilizing AI. The Note Readability Enhancement Feature and the Ambient Listening Feature are referred to in these Terms of Service as the "AI Features." The text, voices, metadata and any other data Uploaded to the AI Features shall be User Content.

Use of the AI Features is optional and you may opt to use one or both of the AI Features by selecting from the menu in the client portal.

**1. Patient Consent.** You agree to obtain affirmative consent from each patient to the use of the AI Features in connection with such patient. Specifically, you agree to explain to each patient the following information listed under Data Handling & Privacy.

## **Data Handling & Privacy**

The AI Features collects text you enter, you and your patient's voice, and you and your patient's metadata necessary to create properly contextual documentation.

The data provided by you to the AI Features may contain the patient's PHI.

The data is processed by third parties outside of ICANotes but remains covered by HIPAA and ICANotes has Business Associate Agreements with such third parties.

Data processed by the AI Features and resulting Output (as defined below) from the AI features may be used by ICANotes to train or fine-tune the AI Features.

If you are not able to obtain consent from a patient prior to the use of the AI Features do not use them with that patient. By using the AI Features as a part of your use of the Service for a patient session, you represent and warrant to ICANotes that you have obtained that patient's consent and such use is permitted by your professional agreement with such patient. You are responsible for any User Content you Upload to the AI Features, including for ensuring that such User Content, including any PHI, does not violate any applicable law, rule, regulation, or these Terms of Service.

**2. Third Parties.** The AI features are powered by third-party AI providers ("AI Providers"). By using our Service, you consent to sharing data that you Upload to us, or that resides within your client account, with our AI Providers for the purpose of enhancing features within our Services made available to you. AI Providers process data only in the United States.

**3. Use of Your User Content.** As part of providing the AI Features, ICANotes will process and store your Uploads to the AI Features of the Service as well as output from AI Features of the Service ("Output"), for purposes of monitoring for and preventing abusive or harmful uses or outputs of the Service.

**4. Restrictions.** These Terms of Service do not grant you any ownership rights to the AI Features. Unless an exception or limitation applies under applicable law, you may not (i) use the Features or any Output to optimize or develop models, algorithms, or systems to compete with ICANotes or the Third Party Providers, (ii) decompile or reverse engineer the AI Features or Output; or (iii) access, use, or allow others to access or use the AI Features or Output in any manner that would violate these Terms of Service.

**5. Personal Information and PHI.** Except for ICANotes' obligations to treat PHI in accordance with the BAA, you assume any and all risks and liability associated with your sharing of any personal information or PHI with us as part of any User Content, whether such sharing is intentional or inadvertent, including any and all risks and liability associated with any Output that results from your sharing of any personal information or PHI with us as part of any User Content.

## **6. Disclaimer.**

The AI Features are not designed, intended, or to be used as substitutes for professional advice. You understand and agree that Output generated by the AI Features may contain inaccuracies and should never be relied upon without independent verification. If you use or publish any Output, you are solely responsible for evaluating the Output and determining its accuracy, suitability, completeness, and the appropriateness of using or publishing the Output. You acknowledge and agree that you - not ICANotes - are responsible for your use of any Output, and/or any actions you take in relation to your use of the AI Features. You assume any and all risks associated with your use of the Output and AI Features. ICANotes does not control the Output or responses provided by AI Providers, and makes no representations or warranties about the accuracy or completeness of such Output or responses (or the

sites and sources accessed through such content or responses). ICANotes does not make any warranties regarding Output, including its completeness, reliability, accuracy, appropriateness, or compliance with applicable laws. Output is provided on an “as is” and “as available” basis and we make no guarantees that the AI Features will be safe, secure, or error-free or will function without disruptions, delays or imperfections. We also make no warranty that Output will be unique, protected by intellectual property rights, or that it will not infringe third party rights. Due to the nature of AI, Output may not be unique and the AI Features may generate and/or provide the same or similar Output for you as it generates and/or provides for other users. Outputs that are generated for other users are not considered your content.

7. We may modify, suspend, discontinue, or further limit use of the AI Features, at any time and without notice to you, with or without cause. If we do any of the foregoing, we are not in any way liable to you for any modification, suspension, termination, discontinuation, or limitation of the AI Features. We may add additional AI Features by updating these Terms of Service as provided for herein.

A user's failure to obtain consent would already be covered under this clause but we could specifically add the user's failure to get patient consent to the use of the AI Features.

### **Indemnity and Release**

At ICANotes' request, you agree to release, indemnify and hold ICANotes and its affiliates and their officers, employees, directors and agent (collectively, “Indemnitees”) harmless from any from any and all losses, damages, expenses, including reasonable attorneys' fees, rights, claims, actions of any kind and injury (including death) arising out of or relating to your use of the Service, any User Content, your connection to the Service, your violation of these Terms of Service, your failure to obtain patients' consents to your opting to use the AI Features of the Service, or your violation of any rights of another. Notwithstanding the foregoing, you will have no obligation to indemnify or hold harmless any Indemnitee from or against any liability, losses, damages or expenses incurred as a result of any action or inaction of such Indemnitee. If you are a California resident, you waive California Civil Code Section 1542, which says: “A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor.” If you are a resident of another jurisdiction, you waive any comparable statute or doctrine. Note this section supersedes Indemnity language in previous Terms of Service.

**Fees:** To the extent the Service or any portion thereof is made available for any fee, you will be required to select a payment plan and provide ICANotes information regarding your credit card or other payment instrument. You represent and warrant to ICANotes that such information is true and that you are authorized to use the payment instrument. You will promptly update your account information with any changes (for example, a change in your billing address or credit card expiration date) that may occur. You agree to pay ICANotes the amount that is specified in the payment plan in accordance with the terms of such plan and this Terms of Service. You hereby authorize ICANotes to bill your payment instrument in advance on a periodic basis in accordance with the terms of the applicable payment plan until you terminate your account, and you further agree to pay any charges so incurred. If you dispute any charges you must let ICANotes know within sixty (60) days after the date that ICANotes charges you. We reserve the right to change ICANotes' prices. If ICANotes does change prices, ICANotes will provide notice of the change on the Site or in email to you, at ICANotes' option, at least 30 days before the change is to take effect. Your continued use of the Service after the price change becomes effective constitutes your agreement to pay the changed amount. ICANotes may choose to bill through an invoice, in which case, full payment for invoices issued in any given month must be received by ICANotes thirty (30) days after the mailing date of the invoice, or the Services may be terminated. Unpaid invoices are subject to a finance charge of 1.5% per month on any outstanding balance, or the maximum permitted by law, whichever is lower, plus all expenses of collection. You are responsible for all taxes associated with the Services other than U.S. taxes based on ICANotes' net income.

**Special Notice for International Use; Export Controls:** Software (defined below) available in connection with the Service and the transmission of applicable data, if any, is subject to United States export controls. No Software may be downloaded from the Service or otherwise exported or re-exported in violation of U.S. export laws. Downloading or using the Software is at your sole risk. Recognizing the global nature of the Internet, you agree to comply with all local rules and laws regarding your use of the Service, including as it concerns online conduct and acceptable content.

**Commercial Use:** Unless otherwise expressly authorized herein or in the Service, you agree not to display, distribute, license, perform, publish, reproduce, duplicate, copy, create derivative works from, modify, sell, resell, exploit, transfer or upload for any commercial purposes, any portion of the Service.

**U.S. Government Rights:** This Software includes CPT and/or CPT® Consumer Friendly Data which are commercial technical data, which was developed exclusively at private expense by the American Medical Association (“AMA”), 330 North Wabash Avenue, Chicago, Illinois 60611. The AMA does not agree to license CPT to the Federal Government based on the license in FAR 52.227-14 (Data Rights - General) and DFARS 252.227-7015 (Technical Data - Commercial Items) or any other license provision. The AMA reserves all rights to approve any license with any Federal agency.

### **Intellectual Property Rights**

**Service Content, Software and Trademarks:** You acknowledge and agree that the Service may contain content or features (“Service Content”) that are protected by copyright, patent, trademark, trade secret or other proprietary rights and laws. Except as expressly authorized by ICANotes, you agree not to modify, copy, frame, scrape, rent, lease, loan, sell, distribute or create derivative works based on the Service or the Service Content, in whole or in part, except that the foregoing does not apply to your own User Content (as defined below) that you legally upload to the Service. In connection with your use of the Service you will not engage in or use any data mining, robots, scraping or similar data gathering or extraction methods. If you are blocked by ICANotes from accessing the Service (including by blocking your IP address), you agree not to implement any measures to circumvent such blocking (e.g., by masking your IP address or using a proxy IP address). Any use of the Service or the Service Content other than as specifically authorized herein is strictly prohibited. The technology and software underlying the Service or distributed in connection therewith are the property of ICANotes, our affiliates and our partners (the “Software”). You agree not to copy, modify, create a derivative work or, create a ‘work-alike’ application, reverse engineer, reverse assemble or otherwise attempt to discover any source code, sell, assign, sublicense, or otherwise transfer any right in the Software. Any rights not expressly granted herein are reserved by ICANotes.

Customer may not capture in screenshots or video communications any Service Content that involves the use or disclosure of ICANotes’ intellectual property beyond what is required by or permitted in the Condition of Certification requirements (45 CFR 170.403)

The ICANotes name and logos are trademarks and service marks of ICANotes (collectively the “ICANotes Trademarks”). Other company, product, and service names and logos used and displayed via the Service may be trademarks or service marks of their respective owners who may or may not endorse or be affiliated with or connected to ICANotes. Nothing in this Terms of Service or the Service should be construed as granting, by implication, estoppel, or otherwise, any license or right to use any of ICANotes Trademarks displayed on the Service, without our prior written permission in each instance. All goodwill generated from the use of ICANotes Trademarks will inure to our exclusive benefit.

**Third Party Material:** Under no circumstances will ICANotes be liable in any way for any content or materials of any third parties (including users), including, but not limited to, for any errors or omissions in any content, or for any loss or damage of any kind incurred as a result of the use of any such content. You acknowledge that ICANotes does not pre-screen content, but that ICANotes and its designees will have the right (but not the obligation) in their sole discretion to refuse or remove any

content that is available via the Service. Without limiting the foregoing, ICANotes and its designees will have the right to remove any content that violates these Terms of Service or is deemed by ICANotes, in its sole discretion, to be otherwise objectionable. You agree that you must evaluate, and bear all risks associated with, the use of any content, including any reliance on the accuracy, completeness, or usefulness of such content.

**User Content Transmitted Through the Service:** With respect to the content or other materials you upload through the Service or share with other users or recipients (collectively, "User Content"), you represent and warrant that you own all right, title and interest in and to such User Content, including, without limitation, all copyrights and rights of publicity contained therein. By uploading any User Content you hereby grant and will grant ICANotes and its affiliated companies a nonexclusive, worldwide, royalty free, fully paid up, transferable, sublicensable, perpetual, irrevocable license to copy, display, upload, perform, distribute, store, modify and otherwise use your User Content in connection with the operation of the Service in any form, medium or technology now known or later developed.

ICANotes will make no use of Protected Health Information ("PHI," as defined at 45 C.F.R. § 160.103) except as permitted by these Terms of Service and applicable law, including but not limited to HIPAA. ICANotes will use commercially reasonable efforts to maintain the Service in a manner that includes appropriate administrative, technical and physical security measures designed to protect the confidentiality, availability and integrity of User Content, including PHI as required by HIPAA. You are responsible for ensuring that your use of the Service is compliant with HIPAA, such as security incident monitoring and reporting. You are responsible for maintaining any other administrative, technical and physical measures required to maintain appropriate information security with respect to your PHI and to otherwise comply with HIPAA.

You acknowledge and agree that any questions, comments, suggestions, ideas, feedback or other information about the Service ("Submissions"), provided by you to ICANotes are non-confidential and ICANotes will be entitled to the unrestricted use and dissemination of these Submissions for any purpose, commercial or otherwise, without acknowledgment or compensation to you.

You acknowledge and agree that ICANotes may preserve content and may also disclose content if required to do so by law or in the good faith belief that such preservation or disclosure is reasonably necessary to: (a) comply with legal process, applicable laws or government requests; (b) enforce these Terms of Service; (c) respond to claims that any content violates the rights of third parties; or (d) protect the rights, property, or personal safety of ICANotes, its users and the public. You understand that the technical processing and transmission of the Service, including your content, may involve (a) transmissions over various networks; and (b) changes to conform and adapt to technical requirements of connecting networks or devices.

**Copyright Complaints:** ICANotes respects the intellectual property of others, and we ask our users to do the same. If you believe that your work has been copied in a way that constitutes copyright infringement, or that your intellectual property rights have been otherwise violated, you should notify ICANotes of your infringement claim in accordance with the procedure set forth below.

ICANotes will process and investigate notices of alleged infringement and will take appropriate actions under the Digital Millennium Copyright Act ("DMCA") and other applicable intellectual property laws with respect to any alleged or actual infringement. A notification of claimed copyright infringement should be emailed to ICANotes' Copyright Agent at support@icanotes.com (Subject line: "DMCA Takedown Request"). You may also contact us by mail or facsimile at:

RALS NJ, LLC  
208 W. State St  
Trenton NJ 08608-1002  
Fax: 443-992-4239



To be effective, the notification must be in writing and contain the following information:

- an electronic or physical signature of the person authorized to act on behalf of the owner of the copyright or other intellectual property interest;
- a description of the copyrighted work or other intellectual property that you claim has been infringed;
- a description of where the material that you claim is infringing is located on the Service, with enough detail that we may find it on the Service;
- your address, telephone number, and email address;
- a statement by you that you have a good faith belief that the disputed use is not authorized by the copyright or intellectual property owner, its agent, or the law;
- a statement by you, made under penalty of perjury, that the above information in your Notice is accurate and that you are the copyright or intellectual property owner or authorized to act on the copyright or intellectual property owner's behalf.

**Counter-Notice:** If you believe that your User Content that was removed (or to which access was disabled) is not infringing, or that you have the authorization from the copyright owner, the copyright owner's agent, or pursuant to the law, to upload and use the content in your User Content, you may send a written counter-notice containing the following information to the Copyright Agent:

- your physical or electronic signature;
- identification of the content that has been removed or to which access has been disabled and the location at which the content appeared before it was removed or disabled;
- a statement that you have a good faith belief that the content was removed or disabled as a result of mistake or a misidentification of the content; and
- your name, address, telephone number, and email address, a statement that you consent to the jurisdiction of the federal court located within Delaware and a statement that you will accept service of process from the person who provided notification of the alleged infringement.

If a counter-notice is received by the Copyright Agent, ICANotes will send a copy of the counter-notice to the original complaining party informing that person that it may replace the removed content or cease disabling it in 10 business days. Unless the copyright owner files an action seeking a court order against the content provider, member or user, the removed content may be replaced, or access to it restored, in 10 to 14 business days or more after receipt of the counter-notice, at our sole discretion.

**Repeat Infringer Policy:** In accordance with the DMCA and other applicable law, ICANotes has adopted a policy of terminating, in appropriate circumstances and at ICANotes' sole discretion, users who are deemed to be repeat infringers. ICANotes may also at its sole discretion limit access to the Service and/or terminate the memberships of any users who infringe any intellectual property rights of others, whether or not there is any repeat infringement.

### **Third Party Websites**

The Service may provide, or third parties may provide, links or other access to other sites and resources on the Internet. ICANotes has no control over such sites and resources and ICANotes is not responsible for and does not endorse such sites and resources. You further acknowledge and agree that ICANotes will not be responsible or liable, directly or indirectly, for any damage or loss caused or alleged to be caused by or in connection with use of or reliance on any content, events, goods or services available on or through any such site or resource. Any dealings you have with third parties found while using the Service are between you and the third party, and you agree that ICANotes is not liable for any loss or claim that you may have against any such third party.

### **Indemnity and Release**

At ICANotes' request, you agree to release, indemnify and hold ICANotes and its affiliates and their officers, employees, directors and agent (collectively, "Indemnitees") harmless from any from any and all losses, damages, expenses, including reasonable attorneys' fees, rights, claims, actions of any kind and

injury (including death) arising out of or relating to your use of the Service, any User Content, your connection to the Service, your violation of these Terms of Service or your violation of any rights of another. Notwithstanding the foregoing, you will have no obligation to indemnify or hold harmless any Indemnitee from or against any liability, losses, damages or expenses incurred as a result of any action or inaction of such Indemnitee. If you are a California resident, you waive California Civil Code Section 1542, which says: "A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor." If you are a resident of another jurisdiction, you waive any comparable statute or doctrine.

#### **Disclaimer of Warranties**

YOUR USE OF THE SERVICE IS AT YOUR SOLE RISK. THE SERVICE IS PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS. ICANOTES EXPRESSLY DISCLAIMS ALL WARRANTIES OF ANY KIND, WHETHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING, BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NONINFRINGEMENT.

ICANOTES MAKES NO WARRANTY THAT (I) THE SERVICE WILL MEET YOUR REQUIREMENTS, (II) THE SERVICE WILL BE UNINTERRUPTED, TIMELY, SECURE, OR ERROR-FREE, (III) THE RESULTS THAT MAY BE OBTAINED FROM THE USE OF THE SERVICE WILL BE ACCURATE OR RELIABLE, OR (IV) THE QUALITY OF ANY PRODUCTS, SERVICES, INFORMATION, OR OTHER MATERIAL PURCHASED OR OBTAINED BY YOU THROUGH THE SERVICE WILL MEET YOUR EXPECTATIONS.

YOU ACKNOWLEDGE AND AGREE THAT ICANOTES IS PROVIDING ONLY A TECHNOLOGY PLATFORM AND IS NOT PROVIDING MEDICAL ADVICE. ANY INFORMATION THAT ICANOTES MAY PROVIDE IN CONNECTION WITH THE SERVICE IS FOR INFORMATIONAL PURPOSES ONLY, AND IS NOT INTENDED AS A SUBSTITUTE FOR, NOR DOES IT REPLACE, PROFESSIONAL MEDICAL ADVICE, DIAGNOSIS OR TREATMENT. NOTHING STATED OR POSTED ON THE SERVICE BY ICANOTES IS INTENDED TO BETHE PRACTICE OF MEDICINE, DENTISTRY, NURSING, OR OTHER PROFESSIONAL HEALTHCARE ADVICE, OR THE PROVISION OF MEDICAL CARE.

ICANOTES IS BASED IN THE UNITED STATES AND MAKES NO REPRESENTATION THAT ANY ASPECT OF THE SERVICE IS APPROPRIATE OR AVAILABLE FOR USE OUTSIDE OF THE UNITED STATES. THOSE WHO ACCESS THE SERVICE FROM OTHER LOCATIONS ARE RESPONSIBLE FOR COMPLIANCE WITH APPLICABLE LOCAL LAWS.

NO LICENSED MEDICAL PROFESSIONAL/PATIENT RELATIONSHIP IS CREATED BY USING INFORMATION PROVIDED BY, OR THROUGH THE USE OF, THE SERVICE OR THROUGH ANY OTHER COMMUNICATIONS FROM ICANOTES. WE MAKE NO GUARANTEES, REPRESENTATIONS OR WARRANTIES, WHETHER EXPRESSED OR IMPLIED, WITH RESPECT TO PROFESSIONAL QUALIFICATIONS, EXPERTISE, QUALITY OF WORK, PRICE OR COST INFORMATION OR OTHER INFORMATION THROUGH THE SERVICE. IN NO EVENT WILL WE BE LIABLE TO YOU OR ANYONE ELSE FOR ANY DECISION MADE OR ACTION TAKEN BY YOU IN RELIANCE ON ANY SUCH INFORMATION.

#### **Limitation of Liability**

YOU EXPRESSLY UNDERSTAND AND AGREE THAT NEITHER ICANOTES NOR ANY OF ITS DIRECTORS, OFFICERS, EMPLOYEES, SHAREHOLDERS, SUBSIDIARIES, AGENTS OR LICENSORS WILL BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL, EXEMPLARY DAMAGES, OR DAMAGES FOR LOSS OF PROFITS INCLUDING BUT NOT LIMITED TO, DAMAGES FOR LOSS OF GOODWILL, USE, DATA OR OTHER INTANGIBLE LOSSES (EVEN IF ICANOTES HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES), WHETHER BASED ON CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY OR OTHERWISE, RESULTING FROM: (I) THE USE OR THE INABILITY TO USE THE SERVICE; (II) THE COST OF PROCUREMENT OF SUBSTITUTE GOODS AND SERVICES RESULTING FROM ANY GOODS, DATA, INFORMATION OR

SERVICES PURCHASED OR OBTAINED OR MESSAGES RECEIVED OR TRANSACTIONS ENTERED INTO THROUGH OR FROM THE SERVICE; (III) UNAUTHORIZED ACCESS TO OR ALTERATION OF YOUR TRANSMISSIONS OR DATA; (IV) STATEMENTS OR CONDUCT OF ANY THIRD PARTY ON THE SERVICE; OR (V) ANY OTHER MATTER RELATING TO THE SERVICE. IN NO EVENT WILL ICANOTES'S TOTAL LIABILITY TO YOU FOR ALL DAMAGES, LOSSES OR CAUSES OF ACTION EXCEED THE AMOUNT YOU HAVE PAID ICANOTES IN THE LAST SIX (6) MONTHS, OR, IF GREATER, ONE HUNDRED DOLLARS (\$100).

SOME JURISDICTIONS DO NOT ALLOW THE DISCLAIMER OR EXCLUSION OF CERTAIN WARRANTIES OR THE LIMITATION OR EXCLUSION OF LIABILITY FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES. ACCORDINGLY, SOME OF THE ABOVE LIMITATIONS SET FORTH ABOVE MAY NOT APPLY TO YOU. IF YOU ARE DISSATISFIED WITH ANY PORTION OF THE SERVICE OR WITH THESE TERMS OF SERVICE, YOUR SOLE AND EXCLUSIVE REMEDY IS TO DISCONTINUE USE OF THE SERVICE.

### **Termination**

ICANotes requires an initial commitment of a three (3) month subscription to the Service after which you may cancel your subscription and terminate the Terms of Service. After the initial three (3) month subscription, you may cancel your subscription to the Service and terminate these Terms of Service at any time or for any reason by providing at least 15 days' written notice of cancellation to [tickets@icanotes.com](mailto:tickets@icanotes.com) prior to your next billing date in which case ICANotes will have no further obligation or liability to you, except as required by law. If you choose not to cancel your subscription at the expiration of the initial three (3) month subscription period or at any time thereafter, your subscription will automatically renew for the additional subscription periods you select in your payment plan and you will be charged fees as set forth in the applicable payment plan.

ICANotes may opt not to renew your subscription to the Service for any reason by providing you ninety (90) days' notice. You agree that ICANotes, in its sole discretion, may suspend or terminate your account (or any part thereof) or use of the Service and remove and discard any content within the Service if ICANotes reasonably believes that you have violated or acted inconsistently with the letter or spirit of these Terms of Service. All fees paid are non-refundable and all payment obligations are non-cancellable. Any suspected fraudulent, abusive or illegal activity that may be grounds for termination of your use of Service, may be referred to appropriate law enforcement authorities. ICANotes may, at its sole discretion, provide you with a notice period prior to termination for breach of these Terms of Service without waiving any rights, including the right to terminate immediately. ICANotes may also in its sole discretion and at any time discontinue providing the Service, or any part thereof, with or without notice. You agree that any termination of your access to the Service for violation of this Terms of Service may be effected without prior [notice](#), and acknowledge and agree that ICANotes may immediately deactivate or delete your account and all related information and files in your account and/or bar any further access to such files or the Service in such event. Further, you agree that ICANotes will not be liable to you or any third party for any termination of your access to the Service. Upon termination, all rights and licenses granted by ICANotes related to the Service will automatically terminate. The following sections will survive termination: Fees, Intellectual Property Rights, Indemnity and Release, Disclaimer of Warranties, Limitation of Liability, Arbitration, Termination and General.

IF YOU ARE A USER FROM NEW JERSEY, THE FOREGOING SECTIONS TITLED "DISCLAIMER OF WARRANTIES" AND "LIMITATION OF LIABILITY" ARE INTENDED TO BE ONLY AS BROAD AS IS PERMITTED UNDER THE LAWS OF THE STATE OF NEW JERSEY. IF ANY PORTION OF THESE SECTIONS IS HELD TO BE INVALID UNDER THE LAWS OF THE STATE OF NEW JERSEY, THE INVALIDITY OF SUCH PORTION SHALL NOT AFFECT THE VALIDITY OF THE REMAINING PORTIONS OF THE APPLICABLE SECTIONS.

**Dispute Resolution By Binding Arbitration: PLEASE READ THIS SECTION CAREFULLY AS IT AFFECTS YOUR RIGHTS.**

#### **a. Agreement to Arbitrate**

This Dispute Resolution by Binding Arbitration section is referred to in this Terms of Service as the "Arbitration Agreement." You agree that any and all disputes or claims that have arisen or may arise between you and ICANotes, whether arising out of or relating to this Terms of Service (including any alleged breach thereof), the Services, any advertising, any aspect of the relationship or transactions between us, shall be resolved exclusively through final and binding arbitration, rather than a court, in accordance with the terms of this Arbitration Agreement, except that you may assert individual claims in small claims court, if your claims qualify. Further, this Arbitration Agreement does not preclude you from bringing issues to the attention of federal, state, or local agencies, and such agencies can, if the law allows, seek relief against us on your behalf. You agree that, by entering into this Terms of Service, you and ICANotes are each waiving the right to a trial by jury or to participate in a class action. Your rights will be determined by a neutral arbitrator, not a judge or jury. The Federal Arbitration Act governs the interpretation and enforcement of this Arbitration Agreement.

#### **b. Prohibition of Class and Representative Actions and Non-Individualized Relief**

***YOU AND ICANOTES AGREE THAT EACH OF US MAY BRING CLAIMS AGAINST THE OTHER ONLY ON AN INDIVIDUAL BASIS AND NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED CLASS OR REPRESENTATIVE ACTION OR PROCEEDING. UNLESS BOTH YOU AND ICANOTES AGREE OTHERWISE, THE ARBITRATOR MAY NOT CONSOLIDATE OR JOIN MORE THAN ONE PERSON'S OR PARTY'S CLAIMS AND MAY NOT OTHERWISE PRESIDE OVER ANY FORM OF A CONSOLIDATED, REPRESENTATIVE, OR CLASS PROCEEDING. ALSO, THE ARBITRATOR MAY AWARD RELIEF (INCLUDING MONETARY, INJUNCTIVE, AND DECLARATORY RELIEF) ONLY IN FAVOR OF THE INDIVIDUAL PARTY SEEKING RELIEF AND ONLY TO THE EXTENT NECESSARY TO PROVIDE RELIEF NECESSITATED BY THAT PARTY'S INDIVIDUAL CLAIM(S), EXCEPT THAT YOU MAY PURSUE A CLAIM FOR AND THE ARBITRATOR MAY AWARD PUBLIC INJUNCTIVE RELIEF UNDER APPLICABLE LAW TO THE EXTENT REQUIRED FOR THE ENFORCEABILITY OF THIS PROVISION.***

#### **c. Pre-Arbitration Dispute Resolution**

ICANotes is always interested in resolving disputes amicably and efficiently, and most customer concerns can be resolved quickly and to the customer's satisfaction by emailing customer support at support@icanotes.com. If such efforts prove unsuccessful, a party who intends to seek arbitration must first send to the other, by certified mail, a written Notice of Dispute ("Notice"). The Notice to ICANotes should be sent to RALS NJ, LLC, 208 W. State St., Trenton NJ 08608-1002, Fax: 443-992-4239 ("Notice Address"). The Notice must (i) describe the nature and basis of the claim or dispute and (ii) set forth the specific relief sought. If ICANotes and you do not resolve the claim within sixty (60) calendar days after the Notice is received, you or ICANotes may commence an arbitration proceeding. During the arbitration, the amount of any settlement offer made by ICANotes or you shall not be disclosed to the arbitrator until after the arbitrator determines the amount, if any, to which you or ICANotes is entitled.

#### **d. Arbitration Procedures**

Arbitration will be conducted by a neutral arbitrator in accordance with the American Arbitration Association's ("AAA") rules and procedures, including the AAA's Consumer Arbitration Rules (collectively, the "AAA Rules"), as modified by this Arbitration Agreement. For information on the AAA, please visit its website, <http://www.adr.org>. Information about the AAA Rules and fees for consumer disputes can be found at the AAA's consumer arbitration page, [http://www.adr.org/consumer\\_arbitration](http://www.adr.org/consumer_arbitration). If there is any inconsistency between any term of the AAA Rules and any term of this Arbitration Agreement, the applicable terms of this Arbitration Agreement will control unless the arbitrator determines that the application of the inconsistent Arbitration Agreement terms would not result in a fundamentally fair arbitration. The arbitrator must also follow the provisions of these Terms of Service as a court would. All

issues are for the arbitrator to decide, including, but not limited to, issues relating to the scope, enforceability, and arbitrability of this Arbitration Agreement. Although arbitration proceedings are usually simpler and more streamlined than trials and other judicial proceedings, the arbitrator can award the same damages and relief on an individual basis that a court can award to an individual under the Terms of Service and applicable law. Decisions by the arbitrator are enforceable in court and may be overturned by a court only for very limited reasons.

Unless ICANotes and you agree otherwise, any arbitration hearings will take place in a reasonably convenient location for both parties with due consideration of their ability to travel and other pertinent circumstances. If the parties are unable to agree on a location, the determination shall be made by AAA. If your claim is for \$10,000 or less, ICANotes agrees that you may choose whether the arbitration will be conducted solely on the basis of documents submitted to the arbitrator, through a telephonic hearing, or by an in-person hearing as established by the AAA Rules. If your claim exceeds \$10,000, the right to a hearing will be determined by the AAA Rules. Regardless of the manner in which the arbitration is conducted, the arbitrator shall issue a reasoned written decision sufficient to explain the essential findings and conclusions on which the award is based.

#### **e. Costs of Arbitration**

Payment of all filing, administration, and arbitrator fees (collectively, the "Arbitration Fees") will be governed by the AAA Rules, unless otherwise provided in this Arbitration Agreement. If the value of the relief sought is \$75,000 or less, at your request, ICANotes will pay all Arbitration Fees. If the value of relief sought is more than \$75,000 and you are able to demonstrate to the arbitrator that you are economically unable to pay your portion of the Arbitration Fees or if the arbitrator otherwise determines for any reason that you should not be required to pay your portion of the Arbitration Fees, ICANotes will pay your portion of such fees. In addition, if you demonstrate to the arbitrator that the costs of arbitration will be prohibitive as compared to the costs of litigation, ICANotes will pay as much of the Arbitration Fees as the arbitrator deems necessary to prevent the arbitration from being cost-prohibitive. Any payment of attorneys' fees will be governed by the AAA Rules.

#### **f. Confidentiality**

All aspects of the arbitration proceeding, and any ruling, decision, or award by the arbitrator, will be strictly confidential for the benefit of all parties.

#### **g. Severability**

If a court or the arbitrator decides that any term or provision of this Arbitration Agreement (other than the subsection (b) titled "Prohibition of Class and Representative Actions and Non-Individualized Relief" above) is invalid or unenforceable, the parties agree to replace such term or provision with a term or provision that is valid and enforceable and that comes closest to expressing the intention of the invalid or unenforceable term or provision, and this Arbitration Agreement shall be enforceable as so modified. If a court or the arbitrator decides that any of the provisions of subsection (b) above titled "Prohibition of Class and Representative Actions and Non-Individualized Relief" are invalid or unenforceable, then the entirety of this Arbitration Agreement shall be null and void, unless such provisions are deemed to be invalid or unenforceable solely with respect to claims for public injunctive relief. The remainder of the Terms of Service will continue to apply.

#### **h. Future Changes to Arbitration Agreement**

Notwithstanding any provision in this Terms of Service to the contrary, ICANotes agrees that if it makes any future change to this Arbitration Agreement (other than a change to the Notice Address) while you are a user of the Services, you may reject any such change by sending ICANotes written notice within thirty (30) calendar days of the change to the Notice Address provided above. By rejecting any future change, you are agreeing that you will arbitrate any dispute between us in accordance with the language

of this Arbitration Agreement as of the date you first accepted these Terms of Service (or accepted any subsequent changes to these Terms of Service).

### **User Disputes**

You agree that you are solely responsible for your interactions with any other user in connection with the Service and ICANotes will have no liability or responsibility with respect thereto. ICANotes reserves the right, but has no obligation, to become involved in any way with disputes between you and any other user of the Service.

### **General**

These Terms of Service constitute the entire agreement between you and ICANotes and govern your use of the Service, superseding any prior agreements between you and ICANotes with respect to the Service. You also may be subject to additional terms and conditions that may apply when you use affiliate or third party services, third party content or third party software. These Terms of Service will be governed by the laws of the State of Delaware without regard to its conflict of law provisions. With respect to any disputes or claims not subject to arbitration, as set forth above, you and ICANotes agree to submit to the personal and exclusive jurisdiction of the state and federal courts located within Delaware. The failure of ICANotes to exercise or enforce any right or provision of these Terms of Service will not constitute a waiver of such right or provision. If any provision of these Terms of Service is found by a court of competent jurisdiction to be invalid, the parties nevertheless agree that the court should endeavor to give effect to the parties' intentions as reflected in the provision, and the other provisions of these Terms of Service remain in full force and effect. You agree that regardless of any statute or law to the contrary, any claim or cause of action arising out of or related to use of the Service or these Terms of Service must be filed within one (1) year after such claim or cause of action arose or be forever barred. A printed version of this agreement and of any notice given in electronic form will be admissible in judicial or administrative proceedings based upon or relating to this agreement to the same extent and subject to the same conditions as other business documents and records originally generated and maintained in printed form. You may not assign this Terms of Service without the prior written consent of ICANotes, but ICANotes may assign or transfer this Terms of Service, in whole or in part, without restriction. The section titles in these Terms of Service are for convenience only and have no legal or contractual effect. Notices to you may be made via either email or regular mail. The Service may also provide notices to you of changes to these Terms of Service or other matters by displaying notices or links to notices generally on the Service.

Note if you and ICANotes at any time elect to sign a contract through the ICANotes Sales Department, the terms and conditions of that signed agreement supersede these Terms of Service.

### **Your Privacy**

At ICANotes, we respect the privacy of our users. For details please see our Privacy Policy. By using the Service, you consent to our collection and use of personal data as outlined therein.

### **Questions? Concerns? Suggestions?**

Please contact us at [ticket@icanotes.com](mailto:ticket@icanotes.com) to report any violations of these Terms of Service or to pose any questions regarding this Terms of Service or the Service.