

## Terms of Use

These terms of use ("**Terms of Use**") are entered into by and between You and Hospitalists Now, Inc. d/b/a HNI Healthcare ("**Company**", "**we**" or "**us**"). These Terms of Use govern your access to and use of the Company's HMVitalSigns™ web-based software application, including any content, functionality and services offered on or through <http://www.hmvitals.com> ("**Vitals**").

Please read these Terms of Use carefully. They govern your use of Vitals.

**By clicking to accept or agree to these Terms of Use, you accept and agree to be bound and abide by these Terms of Use.** Your access to and use of Vitals is conditioned upon your acceptance and compliance with these Terms of Services. If you do not agree to these Terms of Use, you may not access Vitals.

Vitals is offered and available only to registered users. If you are not a registered user, you must neither access nor use Vitals. Registered User shall be defined as a user that has been supplied Vitals identification and passwords by Company.

### Accessing Vitals and Account Security

We reserve the right to amend or discontinue Vitals and any service or material we provide in Vitals at our sole discretion without notice. We will not be liable to you if for any reason all or any part of Vitals is unavailable at any time or for any period or discontinued. From time to time, we may restrict access to some parts of Vitals, or the entire Vitals site, to users, including registered users.

You are responsible for:

- Making all arrangements necessary for you to have access to Vitals.
- Ensuring that all persons who access Vitals through your internet connection are aware of these Terms of Use and comply with them.
- Adhering to all applicable federal, state, local, or international laws (including without limitation the Health Insurance Portability and Accountability Act (HIPAA) and the Health Information Technology for Economic and Clinical Health (HITECH)
- Keeping current with all operating system and security updates as prompted and/or released by any and all devices used to access Vitals.

To access Vitals, you will be asked to provide certain registration details or other information. It is a condition of your use of Vitals that all the information you provide is correct, current, and complete.

If you choose or are provided with a user name, password, or any other piece of information as part of our security procedures, you must treat such information as confidential, and you must not disclose it to any other person or entity. You also agree not to provide any other person with access to Vitals or portions of it using your user name, password, or other security information. You agree to notify us immediately of any unauthorized access to or use of your username or password or any other breach of security by contacting Company at 855.489.8141 or at [servicedesk@hnihc.com](mailto:servicedesk@hnihc.com). You also agree to ensure that you exit from your

account at the end of each session. You should use particular caution when accessing your account from a public or shared computer so that others are not able to view or record your password or other personal information.

We have the right to disable any username, password or other identifier, whether chosen by you or provided by us, at any time if, in our opinion, you have violated any provision of these Terms of Use.

### **Intellectual Property Rights**

Vitals and its entire contents, features, and functionality (including but not limited to all information, software, text, displays, images, video and audio, and the design, selection, and arrangement of Vitals), are owned by the Company, its licensors, or other providers of such material and are protected by United States and international copyright, trademark, patent, trade secret, and other intellectual property or proprietary rights laws.

These Terms of Use permit you to use Vitals for your professional use only. You must not reproduce, distribute, modify, create derivative works of, publicly display, publicly perform, republish, download, store or transmit any of the material in Vitals, except as follows:

- Your computer may temporarily store copies of such materials in RAM incidental to your accessing and viewing those materials.
- You may store files that are automatically cached by your Web browser for display enhancement purposes.
- You may print or download one copy of a reasonable number of pages of Vitals for your own professional use and not for further reproduction, publication or distribution.

You must not:

- Modify copies of any materials from this site.
- Delete or alter any copyright, trademark, or other proprietary rights notices from copies of materials from this site.

You must not access or use for any personal purposes any part of Vitals or any services or materials available through Vitals.

If you print, copy, modify, download or otherwise use or provide any other person with access to any part of Vitals in breach of these Terms of Use, your right to use Vitals will cease immediately and you must, at our option, return or destroy any copies of the materials you have made. No right, title, or interest in or to Vitals or any content in Vitals is transferred to you, and all rights not expressly granted are reserved by the Company. Any use of Vitals not expressly permitted by these Terms of Use is a breach of these Terms of Use and may violate copyright, trademark, and other laws.

## **Trademarks**

The Company's name, the mark HMVitalSigns™, the Company's logo, and all related names, logos, product and service names, designs, and slogans are trademarks of the Company or its affiliates or licensors. You must not use such marks without the prior written permission of the Company. All other names, logos, product and service names, designs, and slogans in Vitals are the trademarks of their respective owners.

## **Prohibited Uses**

You may use Vitals only for lawful purposes and in accordance with these Terms of Use. You agree not to use Vitals:

- In any way that violates any applicable federal, state, local, or international law or regulation (including, without limitation, any laws regarding the export of data or software to and from the US or other countries and for fraudulent medical billing and the Health Insurance Portability and Accountability Act (HIPAA) and the Health Information Technology for Economic and Clinical Health (HITECH HIPAA).
- To send, knowingly receive, upload, download, use, or re-use any material which does not comply with these Terms of Use.
- To transmit, or procure the sending of, any advertising or promotional material.
- To impersonate or attempt to impersonate the Company, a Company employee, another user or any other person or entity (including, without limitation, by using e-mail addresses or user names associated with any of the foregoing).
- To engage in any other conduct that restricts or inhibits anyone's use or enjoyment of Vitals, or which, as determined by us, may harm the Company or users of Vitals or expose the Company to liability.

Additionally, you agree not to:

- Use Vitals in any manner that could disable, overburden, damage, or impair the site or interfere with any other party's use of Vitals, including their ability to engage in real-time activities through Vitals.
- Use any robot, spider, or other automatic device, process, or means to access Vitals for any purpose, including monitoring or copying any of the material in Vitals.
- Use any manual process to monitor or copy any of the material in Vitals or for any other unauthorized purpose without our prior written consent.
- Use any device, software, or routine that interferes with the proper working of Vitals.
- Introduce any viruses, trojan horses, worms, logic bombs, or other material which is malicious or technologically harmful.
- Attempt to gain unauthorized access to, interfere with, damage, or disrupt any parts of Vitals, the server(s) on which Vitals is stored, or any server, computer, or database connected to Vitals.
- Attack Vitals via a denial-of-service attack or a distributed denial-of-service attack.
- Otherwise attempt to interfere with the proper working of Vitals.

## **User Contributions**

Vitals may contain interactive features (“**Interactive Services**”) that allow users send messages to other users or other persons and upload facesheets and other content or materials (collectively, “**User Contributions**”) in or through Vitals. User Contributions do not include patient data and information submitted to Vitals.

All User Contributions must comply with the Content Standards set out in these Terms of Use.

Any User Contribution you post to the site will be considered non-confidential and non-proprietary. By providing any User Contribution in Vitals, you grant us and our affiliates and service providers, and each of their and our respective licensees, successors, and assigns the right to use, reproduce, modify, perform, display, distribute, and otherwise disclose to third parties any such material for any purpose.

You represent and warrant that:

- You own or control all rights in and to the User Contributions and have the right to grant the license granted above to us and our affiliates and service providers, and each of their and our respective licensees, successors and assigns.
- All of your User Contributions do and will comply with these Terms of Use.

You understand and acknowledge that you are responsible for any User Contributions you submit or contribute, and you, not the Company, have full responsibility for such content, including its legality, reliability, accuracy, and appropriateness.

We are not responsible or liable to any third party for the content or accuracy of any User Contributions posted by you or any other user of Vitals.

## **Monitoring and Enforcement; Termination**

We have the right to:

- Remove or refuse to post any User Contributions for any or no reason in our sole discretion.
- Take any action with respect to any User Contribution that we deem necessary or appropriate in our sole discretion, including if we believe that such User Contribution violates the Terms of Use, including the Content Standards, infringes any intellectual property right or other right of any person or entity, threatens the personal safety of users of Vitals or the public, or could create liability for the Company.
- Disclose your identity or other information about you to any third party who claims that material posted by you violates their rights, including their intellectual property rights or their right to privacy.
- Take appropriate legal action, including without limitation, referral to law enforcement, for any illegal or unauthorized use of Vitals.
- Terminate or suspend your access to all or part of Vitals for any violation of these Terms of Use.

Without limiting the foregoing, we have the right to fully cooperate with any law enforcement authorities or court order requesting or directing us to disclose the identity or other information of anyone posting any materials in or through Vitals. YOU WAIVE AND HOLD HARMLESS THE COMPANY AND ITS AFFILIATES, LICENSEES AND SERVICE PROVIDERS FROM ANY CLAIMS RESULTING FROM ANY ACTION TAKEN BY THE COMPANY OR ANY OF THE FOREGOING PARTIES DURING OR AS A RESULT OF ITS INVESTIGATIONS AND FROM ANY ACTIONS TAKEN AS A CONSEQUENCE OF INVESTIGATIONS BY EITHER THE COMPANY, SUCH PARTIES, OR LAW ENFORCEMENT AUTHORITIES.

However, we cannot review material before it is posted in Vitals, and we cannot ensure prompt removal of objectionable material after it has been posted. Accordingly, we assume no liability for any action or inaction regarding transmissions, communications, or content provided by any user or third party. We have no liability or responsibility to anyone for performance or nonperformance of the activities described in this section.

### **Content Standards**

These content standards apply to any and all User Contributions and use of Interactive Services. User Contributions must in their entirety comply with all applicable federal, state, local, and international laws and regulations. Without limiting the foregoing, User Contributions must not:

- Contain any material which is defamatory, obscene, indecent, abusive, offensive, harassing, violent, hateful, inflammatory, or otherwise objectionable.
- Promote sexually explicit or pornographic material, violence, or discrimination based on race, sex, religion, nationality, disability, sexual orientation, or age.
- Infringe any patent, trademark, trade secret, copyright, or other intellectual property or other rights of any other person.
- Violate the legal rights (including the rights of publicity and privacy) of others or contain any material that could give rise to any civil or criminal liability under applicable laws or regulations or that otherwise may be in conflict with these Terms of Use.
- Be likely to deceive any person.
- Promote any illegal activity, or advocate, promote, or assist any unlawful act.
- Cause annoyance, inconvenience, or needless anxiety or be likely to upset, embarrass, alarm, or annoy any other person.
- Impersonate any person or misrepresent your identity or affiliation with any person or organization.
- Involve commercial activities or sales, such as contests, sweepstakes, and other sales promotions, barter or advertising.
- Give the impression that User Contributions emanate from or are endorsed by us or any other person or entity, if this is not the case.

### **Reliance on Information Posted**

The information presented in or through Vitals is made available solely for general information purposes. We do not warrant the accuracy, completeness, or usefulness of this information. Any reliance you place on such

information is strictly at your own risk. We disclaim all liability and responsibility arising from any reliance placed on such materials by you or any other visitor to Vitals, or by anyone who may be informed of any of its contents.

### **Changes to Vitals**

We may update the content from time to time, but its content is not necessarily complete or up-to-date. Any of the material in Vitals may be out of date at any given time, and we are under no obligation to update such material.

### **Links from Vitals**

If Vitals contains links to other sites and resources provided by third parties, these links are provided for your convenience only. We have no control over the contents of those sites or resources and accept no responsibility for them or for any loss or damage that may arise from your use of them. If you decide to access any of the third-party websites linked to Vitals, you do so entirely at your own risk and subject to the terms and conditions of use for such websites.

### **Geographic Restrictions**

The owner of Vitals is based in the state of Texas in the United States. We provide Vitals for use only by persons located in the United States. We make no claims that Vitals or any of its content is accessible or appropriate outside of the United States. Access to Vitals may not be legal by certain persons or in certain countries. If you access Vitals from outside the United States, you do so on your own initiative and are responsible for compliance with local laws.

### **Disclaimer of Warranties**

You understand that we cannot and do not guarantee or warrant that Vitals will be free of viruses or other destructive code or the accuracy or completeness of the patient or medical billing data and information submitted to Vitals. You are responsible for implementing sufficient procedures and checkpoints to satisfy your particular requirements for anti-virus protection and accuracy of data input and output, and for maintaining a means external to our site for any reconstruction of any lost data. WE WILL NOT BE LIABLE FOR ANY LOSS OR DAMAGE CAUSED BY A DISTRIBUTED DENIAL-OF-SERVICE ATTACK, VIRUSES OR OTHER TECHNOLOGICALLY HARMFUL MATERIAL THAT MAY INFECT YOUR COMPUTER EQUIPMENT, COMPUTER PROGRAMS, DATA OR OTHER PROPRIETARY MATERIAL DUE TO YOUR USE OF VITALS OR ANY SERVICES OR ITEMS OBTAINED THROUGH VITALS OR TO YOUR DOWNLOADING OF ANY MATERIAL POSTED ON IT, OR ON ANY SITE LINKED TO IT OR FOR ANY INABILITY TO BILL OR RECEIVE PAYMENT.

YOUR USE OF VITALS, ITS CONTENT AND ANY SERVICES OR ITEMS OBTAINED THROUGH VITALS IS AT YOUR OWN RISK. VITALS, ITS CONTENT AND ANY SERVICES OR ITEMS OBTAINED THROUGH VITALS ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS, WITHOUT ANY WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED. NEITHER THE COMPANY NOR ANY PERSON ASSOCIATED WITH THE COMPANY MAKES ANY WARRANTY OR REPRESENTATION WITH RESPECT TO THE COMPLETENESS, SECURITY, RELIABILITY, QUALITY, ACCURACY OR AVAILABILITY OF VITALS OR ANY INFORMATION THEREIN.

WITHOUT LIMITING THE FOREGOING, NEITHER THE COMPANY NOR ANYONE ASSOCIATED WITH THE COMPANY REPRESENTS OR WARRANTS THAT VITALS, ITS CONTENT OR ANY SERVICES OR DATA OR INFORMATION OBTAINED THROUGH VITALS WILL BE ACCURATE, RELIABLE, ERROR-FREE, OR UNINTERRUPTED, THAT DEFECTS WILL BE CORRECTED, THAT OUR SITE OR THE SERVER(S) THAT MAKE IT AVAILABLE ARE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS, OR THAT VITALS OR ANY SERVICES OR ITEMS OBTAINED THROUGH VITALS WILL OTHERWISE MEET YOUR NEEDS OR EXPECTATIONS.

THE COMPANY HEREBY DISCLAIMS ALL WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, INCLUDING BUT NOT LIMITED TO ANY WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT, AND FITNESS FOR PARTICULAR PURPOSE.

THE FOREGOING DOES NOT AFFECT ANY WARRANTIES WHICH CANNOT BE EXCLUDED OR LIMITED UNDER APPLICABLE LAW.

### **Limitation on Liability**

IN NO EVENT WILL THE COMPANY, ITS AFFILIATES, OR THEIR LICENSORS, SERVICE PROVIDERS, EMPLOYEES, AGENTS, OFFICERS OR DIRECTORS BE LIABLE FOR DAMAGES OF ANY KIND, UNDER ANY LEGAL THEORY, ARISING OUT OF OR IN CONNECTION WITH YOUR USE, OR INABILITY TO USE, VITALS, ANY SITES LINKED TO IT, ANY CONTENT IN VITALS OR SUCH OTHER SITES OR ANY SERVICES OR ITEMS OBTAINED THROUGH VITALS OR SUCH OTHER SITES, INCLUDING ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES, 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, AND WHETHER CAUSED BY TORT (INCLUDING NEGLIGENCE), BREACH OF CONTRACT, OR OTHERWISE, EVEN IF FORESEEABLE. IN NO EVENT WILL COMPANY'S TOTAL CUMULATIVE LIABILITY FOR ANY LOSS OR DAMAGES RESULTING FROM CLAIMS, DEMANDS, OR ACTIONS ARISING OUT OF OR RELATING TO THESE TERMS OF USE AND/OR VITALS WILL NOT EXCEED \$100 (USD). THESE LIMITATIONS WILL APPLY NOTWITHSTANDING ANY FAILURE OF THE ESSENTIAL PURPOSE OF THIS AGREEMENT OR ANY LIMITED REMEDY HEREUNDER.

THE FOREGOING DOES NOT AFFECT ANY LIABILITY WHICH CANNOT BE EXCLUDED OR LIMITED UNDER APPLICABLE LAW.

### **Indemnification**

You agree to defend, indemnify, and hold harmless the Company, its affiliates, licensors, and service providers, and its and their respective officers, directors, employees, contractors, agents, licensors, suppliers, successors, and assigns from and against any claims, liabilities, damages, judgments, awards, losses, costs, expenses, or fees (including reasonable attorney' fees) arising out of or relating to your violation of these Terms of Use or your use of Vitals, including, but not limited to, your User Contributions, any use of Vitals' content, services, and products other than as expressly authorized in these Terms of Use or your use of any information obtained from Vitals.

### **Governing Law and Jurisdiction**

All matters relating to Vitals and these Terms of Use and any dispute or claim arising therefrom or related thereto (in each case, including non-contractual disputes or claims), shall be governed by and construed in accordance with the internal laws of the State of Texas without giving effect to any choice or conflict of law provision or rule (whether of the State of Texas or any other jurisdiction).

Any legal suit, action or proceeding arising out of, or related to, these Terms of Use or Vitals shall be instituted exclusively in the federal courts of the United States or the courts of the State of Texas in each case located in the City of Austin and County of Travis, although we retain the right to bring any suit, action, or proceeding against you for breach of these Terms of Use in your country of residence or any other relevant country. You waive any and all objections to the exercise of jurisdiction over you by such courts and to venue in such courts.

### **Arbitration**

Company and You agree to arbitrate all disputes and claims that arise out of or relate in any way to Vitals or these Terms of Use. This agreement to arbitrate is intended to be broadly interpreted and includes, for example: (a) claims brought under any legal theory; (ii) claims that arose before You first accepted any version of these Terms of Use containing an arbitration provision; (iii) claims that may arise after the termination of You use of Vitals; (iv) claims brought by or against Company or Company affiliates that provide Vitals to You or your employer, and the respective officers, directors, employees, agents, predecessors, successors, and assigns of these entities; and (v) claims brought by You.

This section does not preclude any party from seeking an individualized preliminary injunction or temporary restraining order until a claim is arbitrated, or from bringing an individualized action in small claims court, in any court that has jurisdiction; provided that, as limited by the terms below, the arbitrator will have exclusive jurisdiction to finally resolve claims not within the jurisdiction of a small claims court. This section does not bar any party from bringing issues to the attention of federal, state, or local agencies.

Company and You agree that, by entering into this arbitration agreement, all parties are waiving their respective rights to a trial by jury or to participate in a class or representative action. The Federal Arbitration Act governs the interpretation and enforcement of this Dispute Resolution Agreement. With respect to all disputes or claims that arise out of or relate in any way to Vitals or these Terms of Use, this section supersedes any contrary terms regarding dispute resolution in any other agreement between the parties.

If either party intends to seek arbitration of a dispute, that party must provide the other party with notice in writing (“Notice of Dispute”). This Notice of Dispute to Company must be sent to the following address (“Company’s Notice Address”):

Hospitalists Now Inc. d/b/a HNI Healthcare  
7500 Rialto Blvd., Building 1, Suite 140  
Austin, Texas 78735.

Company will send notice to You at the e-mail and mailing addresses associated with Your account. You agree to receive notice at those addresses. Your Notice of Dispute to Company must provide, as applicable, (a) Your name and mailing address, (b) the email address You use to log into Your account, (c) Your log-in name or user ID (if any), (d) the case number(s) assigned by Company to track previous attempts to resolve

the dispute, (e) a description of the dispute, including the amount in controversy, and (f) a statement of the relief requested. If the parties are unable or unwilling to resolve the dispute within 60 days after the Notice of Dispute is submitted, the dispute will be resolved by arbitration upon one party sending the other party or parties and the American Arbitration Association ("AAA") a demand for arbitration. For the avoidance of doubt, no arbitration demand may be submitted until at least 60 days after submission of the Notice of Dispute. Unless the parties agree otherwise, Your demand for arbitration must be sent to Company's Notice Address and entitled "Demand for Arbitration." Company will send demands for arbitration to You at the e-mail and mailing addresses associated with Your account.

The arbitration will be governed by the AAA's Commercial Arbitration Rules ("AAA Rules"), as modified by these Terms of Use, and will be administered by the AAA. Unless the parties agree otherwise, the Expedited Procedures of the AAA Rules will apply to any claim of \$75,000 or less. The AAA Rules are available online at [adr.org](http://adr.org) or by calling the AAA at 1-800-778-7879. If the AAA is unavailable, the parties will agree to another arbitration provider or the court will appoint a substitute. To the fullest extent permitted by applicable law, any evidentiary submissions made in arbitration will be maintained as confidential in the absence of good cause for its disclosure. The arbitrator's award will be maintained as confidential only to the extent necessary to protect either party's trade secrets or proprietary business information or to comply with a legal requirement mandating confidentiality.

Unless the parties agree otherwise, any arbitration hearings will take place in the county (or parish) of Your employer's principal place of business. If the value of Your claim is \$25,000 or less, You may choose whether the arbitration will be conducted solely on the basis of documents submitted to the arbitrator, by telephone, or by an in-person hearing. If the value of Your claim exceeds \$25,000, the right to a hearing will be determined by the AAA Rules. Regardless of the manner in which the arbitration is conducted, the arbitrator will issue a written decision sufficient to explain the essential findings and conclusions on which the decision is based. All issues are for the arbitrator to decide, except that only a court of competent jurisdiction may decide issues relating to the scope and enforceability of this arbitration provision, the arbitrability of disputes, or the interpretation of this arbitration section. The arbitrator will not be bound by rulings in other arbitrations in which You are not a party. The arbitrator can award the same individualized damages and relief that a court can award. Judgment on the award may be entered by any court having jurisdiction.

The AAA's fee schedule is subject to change and may be found in the AAA Rules (available online at [adr.org](http://adr.org) or by calling the AAA at 1-800-778-7879). Company will pay all AAA filing, administrative, and arbitrator fees for any arbitration that Company commences. If You have commenced arbitration at least 60 days after submitting the Notice of Dispute to Company, and the value of Your claim is \$75,000 or less, Company will pay Your share of any such AAA fees. If the value of Your claim is between \$75,000 and \$300,000, Your share of any such fees will be capped at \$200 (unless the law of Your state requires Company to pay all such fees). If the value of Your claim exceeds \$300,000, the allocation of AAA fees will be governed by the AAA Rules. But the arbitrator may reallocate the fees to require Company to pay all fees if You cannot afford to pay them. If, however, the arbitrator finds that either the substance of Your claim or the relief sought is frivolous or brought for an improper purpose (as measured by the standards in Federal Rule of Civil Procedure 11(b)), then the payment of all AAA fees will be governed by the AAA Rules. In such cases, the arbitrator may direct You to reimburse Company for amounts that Company paid on Your behalf.

The arbitrator may award declaratory or injunctive relief only in favor of the individual party seeking relief and only to the extent necessary to provide relief warranted by that party's individual claim without affecting other Company users or other customers. YOU AND COMPANY AGREE THAT EACH MAY BRING CLAIMS AGAINST THE OTHER ONLY IN ITS INDIVIDUAL CAPACITY, AND NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED CLASS, REPRESENTATIVE, OR PRIVATE ATTORNEY GENERAL PROCEEDING. Further, unless all affected parties agree otherwise, the arbitrator may not consolidate more than one user's claims and may not otherwise preside over any form of a representative or class proceeding. If a court decides that applicable law precludes enforcement of any of this subsection's limitations as to a particular claim for relief, then that claim (and only that claim) must be severed from the arbitration and may be brought in court.

You have the right to opt out of this arbitration section. If You do not wish to be bound by this section (including its waiver of class and representative claims), You must notify Company as set forth below within 30 days of the first acceptance date of any version of these Terms of Use containing an arbitration provision (unless a longer period is required by applicable law). Your notice to Company under this subsection must be submitted via US mail (certified, return receipt requested) or a nationally recognized overnight delivery service. An opt-out notice does not revoke or otherwise affect any previous arbitration agreement between You and Company.

#### **Limitation on Time to File Claims**

ANY CAUSE OF ACTION OR CLAIM YOU MAY HAVE ARISING OUT OF OR RELATING TO THESE TERMS OF USE OR VITALS MUST BE COMMENCED WITHIN ONE YEAR AFTER THE CAUSE OF ACTION ACCRUES, OTHERWISE, SUCH CAUSE OF ACTION OR CLAIM IS PERMANENTLY BARRED.

#### **Waiver and Severability**

No waiver of by the Company of any term or condition set forth in these Terms of Use shall be deemed a further or continuing waiver of such term or condition or a waiver of any other term or condition, and any failure of the Company to assert a right or provision under these Terms of Use shall not constitute a waiver of such right or provision.

If any provision of these Terms of Use is held by a court or other tribunal of competent jurisdiction to be invalid, illegal or unenforceable for any reason, such provision shall be eliminated or limited to the minimum extent such that the remaining provisions of the Terms of Use will continue in full force and effect.

#### **Entire Agreement**

The Terms of Use constitute the sole and entire agreement between you and Company with respect to Vitals and supersede all prior and contemporaneous understandings, agreements, representations, and warranties, both written and oral, with respect to Vitals.

#### **Your Comments and Concerns**

This website is operated by Hospitalists Now Inc. d/b/a HNI Healthcare, 7500 Rialto Blvd., Building 1, Suite 140, Austin, Texas 78735.

All feedback, comments, requests for technical or product support, and other communications relating to Vitals should be directed to: [servicedesk@hnihc.com](mailto:servicedesk@hnihc.com) or 855-489-8141.