

Pathway Software (UK) Limited
Referral Programme Terms and Conditions

1. Interpretation

The following definitions and rules of interpretation apply in these Conditions.

1.1 Definitions:

1 Business Day: a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business.

2 Commission: has the meaning given to it in clause 4.2.

3 Conditions: the terms and conditions set out in this document.

4 Contract: the contract between WriteUpp and the Influencer for the referral of Prospective Customers in accordance with these Conditions.

5 Influencer: the person or firm who Introduces Prospective Customers to WriteUpp on the terms of these Conditions.

6 Introduction: the clicking of the Weblink by a Prospective Customer. **Introduce, Introduces, and Introduced** shall be interpreted accordingly.

7 Introduction Date: for each Prospective Customer, the date during the term of the Contract on which the Influencer first Introduces such Prospective Customer to WriteUpp.

8 Online Channels: the Influencer's websites and social media channels, including Facebook, Instagram, LinkedIn and Twitter.

9 Prospective Customer: a person to whom WriteUpp has not at any time previously provided the Services and with whom WriteUpp has not been in bona fide negotiations to provide the Services in the twelve months before the Introduction Date.

10 Relevant Contract: a subscription fee paying contract for the supply of Services entered into during the term of this Contract between WriteUpp and a Prospective Customer who was Introduced by the Influencer. Any free trial period for the Services offered by WriteUpp to a Prospective Customer shall not be a Relevant Contract.

11 Services: the licensing of cloud-based clinic management software by WriteUpp to third parties, together with any other services from time to time offered by WriteUpp and which WriteUpp, by express written notice to the Influencer, includes within the scope of these Conditions.

12 Weblink: as defined in clause 2.4.

13 WriteUpp: Pathway Software (UK) Limited trading as WriteUpp, a private limited company incorporated and registered in England and Wales with company number 06844098 whose registered office is at 6 Nicholas Street, 6, Nicholas Street, Chester, Cheshire, CH1 2NX.

1.2 **Person.** A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality) and that person's successors and permitted assigns.

1.3 **Amendments to statutes.** A reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time.

1.4 **Subordinate legislation.** A reference to a statute or statutory provision shall include all subordinate legislation made from time to time under that statute or statutory provision.

1.5 **Writing.** A reference to **writing** or **written** includes email but not fax.

1.6 **"Including".** Any words following the terms **including, include, in particular, for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.

1.7 **Clauses.** References to clauses are to the clauses of these Conditions.

2. **Basis of contract**

2.1 These Conditions apply to the Contract to the exclusion of any other terms that the Influencer seeks to impose or incorporate in relation to the referral of Prospective Customers by the Influencer to WriteUpp.

2.2 These Conditions shall not apply to the purchase of any goods or services or the licensing of any WriteUpp app or software by the Influencer from WriteUpp which shall be subject to WriteUpp's standard terms and conditions in force from time to time. Such invitations may be withdrawn without notice at any time and for any reason by WriteUpp.

2.3 The Influencer shall request registration by WriteUpp as a referrer (**Order**) which shall constitute an offer by the Influencer to become a referrer in accordance with these Conditions. Any invitation to join WriteUpp's referral programme or to sign up for early access sent by WriteUpp shall not constitute an offer.

2.4 The Order shall only be deemed to be accepted when WriteUpp issues a written acceptance of the Order, including the unique URL link (**Weblink**) to be used on the Online Channels, at which point the Contract shall come into existence.

2.5 Continued display of the Weblink on the Online Channels shall be deemed continued acceptance of these Conditions.

3. **Introductions**

3.1 **Appointment.** WriteUpp appoints the Influencer on a non-exclusive basis to make Introductions of Prospective Customers through the Online Channels on the terms of these Conditions.

3.2 **Duties of Influencer.**

(a) **Good faith.** The Influencer shall serve WriteUpp faithfully and diligently and not to allow its interests to conflict with its duties under these Conditions; and

(b) **Compliance with instructions.** The Influencer shall comply with all reasonable and lawful instructions of WriteUpp.

3.3 **Limited scope of authority.**

(a) **No authority to bind.** The Influencer shall have no authority, and shall not hold itself out, or permit any person to hold itself out, or otherwise create the impression that it is authorised to bind WriteUpp in any way, and shall not do any act which might reasonably create the impression that the Influencer is so authorised.

(b) **No authority to contract or negotiate.** The Influencer shall not make or enter into any contracts or commitments or incur any liability for or on behalf of WriteUpp, including for the provision of the Services or the price for them, and shall not negotiate any terms for the provision of the Services with Prospective Customers.

3.4 **Restriction on competing activities.** The Influencer shall not, without the prior written consent of WriteUpp, during the term of the Contract perform duties similar to making Introductions on behalf of any person who provides services similar to the Services.

3.5 **Obligation to disclose limits on authority.** Should any third party show interest in the Services and ask the Influencer about the Services, the Influencer must disclose to each Prospective Customer that it is an introduction agent of WriteUpp only and that it has no authority or ability to negotiate or vary the Services or the terms of the Services or enter into any contract on behalf of WriteUpp.

3.6 **Marketing material.** The Influencer shall not produce any marketing material for WriteUpp's services or use WriteUpp's name, logo or trade marks on any marketing material for the Services without the prior written consent of WriteUpp or as permitted by this clause 3.6. For the term of the Contract WriteUpp grants the Influencer a limited, royalty-free, non-exclusive, non-transferable licence to use WriteUpp's name, logo or trade marks to the extent only as permitted by WriteUpp's 'Media Guide'.

3.7 **Limits on representations.** The Influencer shall not, without WriteUpp's prior written consent, make or give any representations, warranties or other promises concerning the Services which are not contained in WriteUpp's 'Media Guide'. The Influencer may give opinion on the Services based on the Influencer's own use of the Services.

4. **Commission and payment**

4.1 **Commission entitlement.** The Influencer shall be entitled to Commission if a Prospective Customer Introduced by the Influencer enters into a Relevant Contract and continues under that Relevant Contract on a fee paying basis for three continuous months.

4.2 **Commission rate.** The amount of commission payable shall be the subscription fees for the Services paid by the Prospective Customer to WriteUpp for the first continuous three months of the Prospective Customer's Relevant Contract only (**Commission**). No further Commission shall be due.

4.3 **Cancellations.** No Commission shall be payable for any Relevant Contracts that are cancelled (for whatever reason) within the first three months of such Relevant Contract.

4.4 **Duty on WriteUpp to disclose Commission data.** WriteUpp shall notify the Influencer in writing of any Relevant Contracts that have continued on a fee earning basis for three continuous months and for which WriteUpp have been paid for those three months by the Prospective Customer, no later than 30 days after WriteUpp receives payment in full for the first

three months of such Relevant Contract. Such information shall be anonymised and shall not reveal any personal data about the Prospective Customer who is a party to a Relevant Contract.

4.5 Due date for Commission. All Commission payable pursuant to clause 4.2 shall be due to the Influencer within 30 days of the end of the month in which the Influencer invoices WriteUpp. The Influencer may only invoice WriteUpp after WriteUpp has received the corresponding full payment from a Prospective Customer for the first three continuous months of the Services. If WriteUpp has not received full payment from the Prospective Customer for the first three continuous months of a Relevant Contract, then the Influencer may not invoice WriteUpp until such payments are received in full by WriteUpp, and accordingly no Commission shall be due. Payment shall be made via bank transfer or PayPal.

4.6 Commission statement. WriteUpp shall, within 30 days of the end of the month in which WriteUpp should have received the corresponding full payment from a Prospective Customer for the third continuous month of the Services, send to the Influencer a written statement setting out, in respect of such month, and in respect of each Relevant Contract:

- (a) the Commission payable to the Influencer; and
- (b) the payments for Services received and details of any sums due which have not been received.

Such information shall be anonymised and shall not reveal any personal data about the Prospective Customer who is a party to a Relevant Contract

4.7 Invoicing of Commission. The Influencer shall invoice WriteUpp for the Commission payable together with any applicable VAT. The due date for payment by WriteUpp of such Commission shall be in accordance with clause 4.5.

4.8 Currency of Commission. Commission shall be payable to the Influencer in pounds sterling.

4.9 Taxes. All sums payable under these Conditions:

- (a) are exclusive of VAT or other applicable sales tax (whether in the UK or elsewhere), which shall be added to the sum in question (where applicable);
- (b) shall be paid in full without any deductions (including deductions in respect of items such as income, corporation, or other taxes, charges and/or duties) except where the payer is required by law to deduct withholding tax from sums payable to the payee. If the payer is required by law to deduct withholding tax, then the payer and the payee shall co-operate in all respects and take all reasonable steps necessary to:
 - (i) lawfully avoid making any such deductions; or
 - (ii) enable the payee to obtain a tax credit in respect of the amount withheld.

4.10 Interest on late payments. If WriteUpp fails to make any payment due to the Influencer under these Conditions by the due date for payment, then WriteUpp shall pay interest on the overdue amount at the rate of 1% per annum above the Bank of England's base rate from time to time. Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgment. WriteUpp shall pay the interest together with the overdue amount.

4.11 **Accounts and records.** WriteUpp shall keep separate accounts and records giving correct and adequate details of all Relevant Contracts entered into by WriteUpp and all payments received under them.

4.12 **Disputes about Commission.** If any dispute arises as to the amount of Commission payable by WriteUpp to the Influencer, the same shall be referred to WriteUpp's accountants for settlement and their decision, save in the case of manifest error, shall be final and binding on both parties.

4.13 **Exclusions from Commission.** No Commission or other compensation shall be payable where WriteUpp contracts with a Prospective Customer after a referral from a third party in the circumstances described in clause 4.14.

4.14 **Double referrals.** Where a Prospective Customer is Introduced by the Influencer and also referred by a third party who is a party to a WriteUpp referral programme or introducer agreement, whoever made such referral first (as determined by the first time the Prospective Customer clicked either the Weblink or the third party's unique URL link, or the third party first brokered such referral) shall be entitled to any Commission.

5. **Obligations of WriteUpp**

5.1 **Good faith.** WriteUpp must at all material times act in good faith towards the Influencer.

5.2 **Payment of expenses.** WriteUpp shall not be responsible for any expenses incurred by the Influencer.

5.3 **Freedom of WriteUpp not to pursue Introductions.** WriteUpp shall be under no obligation to:

- (a) follow up any Introduction made by the Influencer; or
- (b) enter into a Relevant Contract.

6. **Confidentiality**

6.1 **Obligations of confidentiality.** Each party undertakes that it shall not at any time disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other party or of any member of the group of companies to which the other party belongs, except as permitted by clause 6.2. Either party may disclose to a Prospective Customer the existence of the Contract and that Commission may be payable by WriteUpp.

6.2 **Confidentiality exceptions.** Each party may disclose the other party's confidential information:

- (a) to its employees, officers, representatives or advisers who need to know such information for the purposes of carrying out the party's obligations under these Conditions. Each party shall procure that its employees, officers, representatives or advisers to whom it discloses the other party's confidential information comply with this clause 6; and
- (b) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.

6.3 **Limited use of confidential information.** No party shall use any other party's confidential information for any purpose other than to perform its obligations under these Conditions.

6.4 **Return of documents and records.** All documents and other records (in whatever form) containing confidential information supplied to or acquired by the Influencer from WriteUpp shall be returned promptly to WriteUpp on termination of the Contract, and no copies shall be kept, whether digitally or otherwise.

7. Compliance

Each party shall at its own expense comply with all laws and regulations relating to its activities under these Conditions, as they may change from time to time, and with any conditions binding on it in any applicable licences, registrations, permits and approvals.

8. Anti-bribery

8.1 Anti-bribery compliance by Influencer:

(a) **Compliance with Bribery Act 2010.** The Influencer shall comply with all applicable laws, statutes, regulations and codes relating to anti-bribery and anti-corruption (**Relevant Requirements**), including but not limited to the Bribery Act 2010 (**BA 2010**);

(b) **Conduct outside the UK.** The Influencer shall not engage in any activity, practice or conduct outside the UK which would constitute an offence under sections 1, 2 or 6 of the BA 2010 if such activity, practice or conduct had been carried out inside the UK;

(c) **Influencer's policies and procedures.** The Influencer shall have and shall maintain in place throughout the term of the Contract its own policies and procedures, including adequate procedures under the BA 2010, to ensure compliance with the Relevant Requirements and will enforce them where appropriate;

(d) **Reporting obligation.** The Influencer shall promptly report to WriteUpp any request or demand for any undue financial or other advantage of any kind received by the Influencer in connection with the performance of the Contract;

(e) **Foreign public officials.** The Influencer shall immediately notify WriteUpp in writing if a foreign public official becomes an officer or employee of the Influencer or acquires a direct or indirect interest in the Influencer, and the Influencer warrants that it has no foreign public officials as direct or indirect owners, officers or employees at the date of the Contract;

8.2 **Definitions.** For the purpose of this clause 8, the meaning of adequate procedures and foreign public official and whether a person is associated with another person shall be determined in accordance with section 7(2) of the BA 2010 (and any guidance issued under section 9 of the BA 2010), sections 6(5) and 6(6) of the BA 2010 and section 8 of the BA 2010 respectively.

9. Limitation of liability

9.1 **Unlimited liability.** Nothing in these Conditions shall limit or exclude the liability of either party for:

(a) **Death or personal injury.** Death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors (as applicable).

(b) **Fraud.** Fraud or fraudulent misrepresentation.

(c) **Unlawful liability restrictions.** Any matter in respect of which it would be unlawful to exclude or restrict liability.

9.2 **Limitations of liability.** Subject to clause 9.1 above:

(a) **Loss of profit, revenue, goodwill, or anticipated savings.** WriteUpp shall not under any circumstances whatever be liable to the Influencer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for:

- (i) any loss of profit, sales, revenue, or business;
- (ii) loss of anticipated savings;
- (iii) loss of or damage to goodwill;
- (iv) loss of agreements or contracts;
- (v) loss of use or corruption of software, data or information;
- (vi) any loss arising out of the lawful termination of the Contract or any decision not to renew its term, or
- (vii) any loss that is an indirect or secondary consequence of any act or omission of the party in question.

(b) **Total cap.** The total liability of WriteUpp to the Influencer in respect of all other loss or damage arising under or in connection with these Conditions, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed the subscription fees for the Services paid by Prospective Customers under Relevant Contracts during the 12 months prior to such loss or damage arising.

10. Duration of Contract

The Contract shall commence in accordance with clause 2.4 and shall continue, unless terminated earlier in accordance with clause 11, until either party gives to the other party 14 days' written notice to terminate.

11. Termination

11.1 **Termination on notice.** Without affecting any other right or remedy available to it, either party may terminate the Contract with immediate effect by giving written notice to the other party if:

- (a) the other party fails to pay any amount due under these Conditions on the due date for payment and remains in default not less than 14 days after being notified in writing to make such payment;
- (b) the other party commits a material breach of any term of these Conditions which breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of 7 days after being notified in writing to do so;
- (c) the other party repeatedly breaches any of the terms of these Conditions in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms of these Conditions;
- (d) the other party suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or (being a company or limited

liability partnership) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 (**IA 1986**) or (being an individual) is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the IA 1986 or (being a partnership) has any partner to whom any of the foregoing apply;

(e) the other party commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors other than (being a company) for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party;

(f) a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of that other party (being a company) other than for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party;

(g) an application is made to court, or an order is made, for the appointment of an administrator, or if a notice of intention to appoint an administrator is given or if an administrator is appointed, over the other party (being a company);

(h) the holder of a qualifying floating charge over the assets of that other party (being a company) has become entitled to appoint or has appointed an administrative receiver;

(i) a person becomes entitled to appoint a receiver over the assets of the other party or a receiver is appointed over the assets of the other party;

(j) the other party (being an individual) is the subject of a bankruptcy petition or order;

(k) a creditor or encumbrancer of the other party attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of the other party's assets and such attachment or process is not discharged within 14 days;

(l) any event occurs, or proceeding is taken, with respect to the other party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 11.1(d) to clause 11.1(k) (inclusive);

(m) the other party suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business;

(n) the other party (being an individual) dies or, by reason of illness or incapacity (whether mental or physical), is incapable of managing his or her own affairs or becomes a patient under any mental health legislation; or

(o) there is a change of control of the other party (within the meaning of section 1124 of the Corporation Tax Act 2010).

11.2 Termination for breach of compliance obligations. WriteUpp may terminate the Contract on notice with immediate effect if the Influencer is in breach of its compliance obligations in clause 7 and clause 8.

12. Consequences of termination

12.1 Clauses to remain in force on termination. On termination of the Contract, the following clauses shall continue in force: clause 1, clause 4, clause 6 and clause 12 to clause 21 (inclusive).

12.2 Accrued rights. Termination of the Contract shall not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination, including the right to claim damages in respect of any breach of the agreement which existed at or before the date of termination.

12.3 Commission. On termination of the Contract, WriteUpp shall be required to pay Commission in respect of any Relevant Contracts that have been entered into prior to such termination, other than in respect of a termination as a result any of the events mentioned in clause 11.1(d) to clause 11.1(k) (inclusive), in which case no further Commission shall be payable in respect of any Relevant Contracts.

12.4 Further Introductions. On termination of the Contract, WriteUpp shall not be liable for any further Commission for contracts for the supply of Services entered into with Prospective Customers that have been Introduced after such termination. This clause 12.4 shall not affect Commission for Relevant Contract that have already been entered into prior to such termination, which shall be subject to clause 12.3.

13. No partnership or agency

13.1 No partnership or agency between the parties. Nothing in these Conditions is intended to, or shall be deemed to, establish any partnership or joint venture between any of the parties, constitute any party the agent of another party, or authorise any party to make or enter into any commitments for or on behalf of any other party.

13.2 No agency on behalf of third party. Each party confirms it is acting on its own behalf and not for the benefit of any other person.

14. Entire agreement

14.1 Entire agreement. The Contract constitutes the entire agreement between the parties in respect of its subject matter and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter. The Contract does not extinguish WriteUpp's standard terms and conditions in force from time to time which are applicable to the purchase of any goods or services or the licensing of any WriteUpp app or software by the Influencer from WriteUpp.

14.2 No reliance on matters outside agreement. The Influencer acknowledges that in entering into the Contract it does not rely on, and shall have no remedies in respect of, any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in these Conditions.

14.3 Misrepresentation and misstatement. The Influencer agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in these Conditions.

14.4 Fraud. Nothing in this clause shall limit or exclude any liability for fraud.

15. Variation

No variation of these Conditions shall be effective unless it is agreed in writing by the parties.

16. Assignment and other dealings

16.1 WriteUpp may assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any of its rights and obligations under these Conditions by giving written notice to the Influencer.

16.2 The Influencer shall not assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any of its rights and obligations under these Conditions without the prior written consent of WriteUpp.

17. Severance

If any provision or part-provision of these Conditions is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of these Conditions.

18. Notices

18.1 **Form of notices.** Any notice or other communication given to a party under or in connection with these Conditions shall be in writing, addressed to that party at its registered office, or email address used to communicate with the other party prior to the Contract being formed, or such other address or email address as that party may have specified to the other party in writing in accordance with this clause, and shall be delivered personally, or sent by pre-paid first class post or other next working day delivery service, or by commercial courier, or email.

18.2 **Deemed receipt of notices.** A notice or other communication shall be deemed to have been received:

- (a) if delivered personally, when left at the address referred to in clause 18.1;
- (b) if sent by pre-paid first class post or other next working day delivery service, at 9.00am on the second Business Day after posting;
- (c) if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed;
- (d) or, if sent by email, one Business Day after transmission.

18.3 **Exclusions from notice provisions.** This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution. For the purposes of this clause, "writing" shall not include fax.

19. Third party rights

No one other than a party to these Conditions, their successors and permitted assignees, shall have any right to enforce any of its terms.

20. Governing law

These Conditions and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales.

21. Jurisdiction

Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with these Conditions or its subject matter or formation (including non-contractual disputes or claims).