

# Medipass APIs Terms of Service

The Medipass APIs are a collection of services that allow you to include digital HICAPS quoting and payment functions from Medipass in your Practice Management Software.

Last Updated: May, 2017

## 1. Your relationship with Medipass.

- 1.1. **Use of the Service is Subject to these Terms.** Your use of any of the Medipass APIs (referred to in this document as the "**Medipass API(s)**" or the "**Service**") is subject to the terms of a legal agreement between you and Medipass (the "**Terms**") as set out in these Terms of Service. "**Medipass**" means Medipass Solutions Pty Ltd of 9 / 412 Collins St, Melbourne.
- 1.2. **Changes to the Terms.** Medipass reserves the right to make changes to the Terms from time to time. When these changes are made, Medipass will make a new copy of the Terms available at [https://medipass.com.au/terms\\_and\\_conditions/](https://medipass.com.au/terms_and_conditions/) (or such other URL as Medipass may provide). You understand and agree that if you use the Service after the date on which the Terms have changed, Medipass will treat your use as acceptance of the updated Terms. If a modification is unacceptable to you, you may terminate this agreement by ceasing use of the Medipass API(s).

## 2. Accepting the Terms.

- 2.1. In order to use the Medipass API(s), you must agree to the Terms by:
  - 2.1.1. accepting the Terms in writing, where this option is made available to you by Medipass; or
  - 2.1.2. using the Medipass API(s). You understand and agree that Medipass will treat your use of the Medipass API(s) as acceptance of the Terms from that point onwards.
- 2.2. **Authority to Accept the Terms.** You represent that you have full power, capacity, and authority to accept these Terms. If you are accepting on behalf of your employer or another entity, you represent that you have full legal authority to bind your employer or such entity to these Terms. If you don't have the legal authority to bind, please ensure that an authorized person from your entity consents to and accepts these Terms.

## 3. Privacy and Personal Information.

- 3.1. **Medipass' Privacy Policy.** For information about Medipass' data protection practices, please read [Medipass' Privacy Policy](#). This policy explains how Medipass treats your personal information and protects your privacy when you use the Service.

- 3.2. **Use of Your Data under Medipass' Privacy Policy.** You agree to the use of your data in accordance with [Medipass' Privacy Policy](#).
- 3.3. **Your Privacy Policy.** You must post and abide by an appropriate privacy policy in your Medipass API Implementation in accordance with Section 9.1 (End User Terms and Privacy Policy).
- 3.4. **Applicable Privacy Laws.** You will comply with all applicable laws relating to the collection of information from users to your Medipass API Implementation and to the extent you receive any personal information collected pursuant to the Medipass Privacy Policy and as otherwise relevant to you, you agree to comply with Medipass' Privacy Policy as applicable to that information. In particular, you agree to delete any personal information received by you if holding of such personal information by you is not permitted in accordance with the Medipass Privacy Policy.

#### 4. **Provision of the Service by Medipass.**

- 4.1. **Limits on Your Use of the Service.** You understand and agree that Medipass may limit the number of transactions you may send or receive through the Service; such fixed upper limits may be set by Medipass at any time, at Medipass' discretion. For further information, see Section 10.4(b) below.
- 4.2. **Changes to the Service; Deprecation Policy.** The following is the Service's "Deprecation Policy":
  - 4.2.1. Medipass will announce if it intends to remove major features from, or discontinue, an API or the Service.
  - 4.2.2. Medipass will use commercially reasonable efforts to continue to operate those Medipass API versions and features without these changes until one year after the announcement, unless Medipass determines in its reasonable good faith judgment that:
    - 4.2.2.1. it is required by law or third-party relationship (including changes in law or relationships) to make those changes earlier; or
    - 4.2.2.2. doing so could create a security risk or substantial economic or material technical burden.
- 4.3. **No Support Services.** These terms do not entitle you to any support for the Service except as expressly agreed with you by Medipass.

#### 5. **Your Medipass Account.**

- 5.1. **Signing Up for a Medipass Account.** In order to access the Service, you must have and maintain a Medipass Account in good standing. You must ensure that any information you give to Medipass in connection with your Medipass Account or the Service will always be accurate, correct, and up to date.
- 5.2. **Your Passwords and Account Security.** You will be solely responsible to Medipass for your use of the Service. You must notify Medipass immediately if you become aware of

any unauthorized use of your password; your Medipass Account; or any unique identifier that Medipass requires you to use, such as an API Key or client ID (a "**Developer Identifier**").

## 6. Medipass' Proprietary Rights.

You understand and agree that Medipass and its licensors and their suppliers (as applicable) own all legal right, title, and interest in and to the Service and Content, including any intellectual property rights in the Service and Content (whether those rights are registered or not, and wherever in the world those rights may exist).

## 7. Permitted Uses.

You will use the Service for the purpose of developing software applications, websites or other interfaces ("**Licence Applications**") that develop, own or operate to interact with the Service and which are designed to facilitate your or your customers use of the Service and otherwise only for purposes that:

1. are permitted by the Terms;
2. are permitted by any applicable law or third-party contract in the relevant jurisdictions; and
3. comply with all applicable policies or guidelines made available by Medipass, including in the Medipass APIs Documentation.

## 8. Licenses from Medipass to You.

### 8.1 Definitions.

1. "**Brand Features**" means trade names, trademarks, logos, domain names, and other distinctive brand features.
2. "**Content**" means any content provided through the Service (whether created by Medipass or its third-party licensors), including item numbers and user information.
3. "**Medipass API Implementation**" means a software application, website, or other implementation that uses the Medipass API(s) to obtain and display Content in conjunction with Your Content.
4. "**Your Content**" means any content that you provide in your Medipass API Implementation, including data, images, video, or software. Your Content does not include the Content as defined in Subsection (b).

**8.2 Service License.** Subject to these Terms, during the term of this agreement, Medipass gives you a non-exclusive, worldwide, personal, non-transferable, non-assignable, non-sublicensable, royalty-free license to use the Service as provided by Medipass, in the manner permitted by the Terms.

### 8.3 Brand Features License.

1. Grant. Subject to these Terms (including Section 8.4(b), Section 9 (License Requirements), and Section 10 (License Restrictions)), during the term of this agreement, Medipass gives you a non-exclusive, worldwide, personal, non-transferable, non-assignable, non-sublicensable, royalty-free license to display Medipass' Brand Features solely for the purposes of (i) promoting or advertising your authorized use of the Service in accordance with this clause and (ii) fulfilling your obligations under the Terms.
2. Restrictions. In using Medipass Brand Features, you will not:
  1. display a Medipass Brand Feature in any manner that implies a relationship or affiliation with, sponsorship, or endorsement by Medipass (other than your use of the Service), or that can be reasonably interpreted to suggest editorial content has been authored by, or represents the views or opinions of, Medipass or its personnel;
  2. display a Medipass Brand Feature as the most prominent element in your Medipass API Implementation, on any page of your site, or on any of your other property(ies);
  3. display a Medipass Brand Feature in a manner that is misleading, defamatory, infringing, libelous, disparaging, obscene, or otherwise objectionable to Medipass;
  4. use Medipass Brand Features to disparage Medipass or the Medipass Services;
  5. display a Medipass Brand Feature in your Medipass API Implementation, site, or other property(ies) that violate any law or regulation; or
  6. remove, distort, or alter any element of a Medipass Brand Feature (including squeezing, stretching, inverting, or discoloring).
3. No further license grant; no challenges. Except as stated in this clause, nothing in the Terms grants or will be deemed to grant you any right, title, or interest in Medipass' Brand Features. Your use of Medipass' Brand Features (including any goodwill associated with them) will inure to Medipass' benefit. During and after the Term, and to the maximum extent permitted by applicable law, you will not challenge or assist others to challenge Medipass' Brand Features (or their registration by Medipass), and you will not attempt to register any Brand Features (including domain names) that are confusingly similar to Medipass' in any way (including in sound, appearance, or spelling).

**8.4 Proprietary Rights Notices.** You will not remove, obscure, or alter any proprietary rights notices (including copyright and trademark notices, Terms of Use links, or Brand Features) displayed or provided through the Service. Where such notices are not displayed or provided within the Service, you must display such notices according to the Medipass APIs Documentation.

**8.5 Determination of Compliance.** Medipass reserves the sole right and discretion to determine whether your use of the Service, Content, and Brand Features complies with these Terms. You agree that Medipass may, acting reasonably, audit your compliance with these terms.

## 9. License Requirements.

Medipass' licenses above are subject to your compliance with the following requirements:

**9.1 End User Terms and Privacy Policy.** If you develop a Medipass API Implementation for use by other users, you must:

1. display to the users of your Medipass API Implementation the link to Medipass' Terms of Service as presented through the Service or described in the Medipass APIs Documentation;
2. explicitly state in your Medipass API Implementation's terms of use that, by using your Medipass API Implementation, your users are agreeing to be bound by Medipass' Terms of Service; and
3. protect the privacy and legal rights of those users.
  1. Your privacy policy. You must make publicly available, and must abide by, an appropriate privacy policy in your Medipass API Implementation. Your privacy policy must comply with all applicable laws, rules and regulations and to the extent applicable to you, with Medipass' privacy policy.
  2. Medipass' Privacy Policy. Your privacy policy must notify users that you are using the Medipass API(s) and incorporate by reference Medipass' Privacy Policy by including a link to Medipass' then-current Privacy Policy (at [https://medipass.com.au/privacy\\_policy/](https://medipass.com.au/privacy_policy/) or such other URL as Medipass may provide).

### 9.2 Attribution.

1. You must conspicuously display the "Medipass Account" attribution (and any other attribution(s) required by Medipass in the Medipass APIs Documentation) on or adjacent to the relevant Service.
2. You understand and agree that Medipass has the sole right and discretion to determine whether your attribution(s) are in compliance with the above requirements.

**9.3 Preventing Unauthorized Use.** You will use all reasonable efforts to prevent unauthorized use of the Service and to terminate any such unauthorized use.

**9.4 Responsibility for Breaches.** You are solely responsible for (and Medipass has no responsibility to you or any third party for) any breach of your obligations under the Terms and for the consequences of any such breach (including any loss or damage that Medipass may suffer).

## 10. License Restrictions.

Except as expressly permitted under the Terms, or unless you have received prior written authorization from Medipass (or, as applicable, from the particular Content provider), Medipass' licenses above are conditioned on your adherence to all of the restrictions below. In this clause 10, the phrase "you will not" means "when using the Service, you will not, and will not permit a third party to."

**10.1 General Medipass API Restrictions.** You will not:

1. Sublicense a Medipass API for use by a third party. Consequently, you will not create an API client that functions substantially the same as the Medipass APIs and offer it for use by third parties.
2. Perform an action with the intent of introducing to Medipass Services any viruses, worms, defects, Trojan horses, malware, or any items of a destructive nature.
3. Defame, abuse, harass, stalk, or threaten others.
4. Interfere with or disrupt the Medipass APIs or the servers or networks providing the Medipass APIs.
5. Reverse engineer or attempt to extract the source code from any Medipass API or any related software, except to the extent that this restriction is expressly prohibited by applicable law.
6. Use robots, spiders, scraping or other technology to access or use the Service to obtain information beyond what Medipass authorises you to access.
7. Create any Licence Application that, when used in accordance with its operating instructions or as otherwise directed by you, violates these terms of service, the Medipass APIs Documentation or any applicable law.
8. Use the Service in a manner that is inconsistent with these terms of service or any part of the Medipass API Documentation.
9. Remove, obscure, or alter any Medipass terms of service, or any links to or notices of those terms.
10. Permit, facilitate or enable any third party to do anything prohibited by these terms of service or any part of the Medipass API Documentation.

**10.2 Restrictions on Unfair Exploitation of the Service and Content.** No use beyond transaction limits and usage policies. If your Medipass API Implementation generates a high volume of transactions, Medipass reserves the right to set transaction limits, as described in the Medipass APIs Documentation. Medipass also reserves the right to set other usage policies in the Documentation from time to time

**10.3 Open Source Software.** You agree that you will not, without Medipass' prior written consent, modify or use the Service with any open source software in a manner that would require the redistribution of the Service or any materials licensed under these terms.

## **11. Licenses from You to Medipass.**

**11.1 Content License.** Medipass claims no ownership over Your Content, and you retain copyright and any other rights you already hold in Your Content.

**11.2 Marketing License.** During the term of this agreement, you give Medipass a non-exclusive, worldwide, sublicensable, royalty-free license to use Your Brand Features and Your Content to publicize or advertise that you are using the Service (for example, by using your marks in presentations, marketing materials, customer lists, financial reports, and website listings (including links to your website), or by creating marketing or advertising materials that show screenshots of the Service in which Your Content is featured).

**11.3 Authority to Grant Licenses.** You represent and warrant that you have all the rights, power, and authority necessary to grant the above licenses.

## **12. Terminating this Agreement.**

**13.1** The Terms will continue to apply until terminated by either you or Medipass as described below.

**13.2** You may terminate your legal agreement with Medipass by removing the Medipass API(s) code from your Medipass API Implementation and discontinuing your use of the Service at any time. You do not need to specifically inform Medipass when you stop using the Service.

**13.3** Medipass reserves the right to terminate these Terms or discontinue the Service, or any portion or feature of the Service, for any reason and at any time without liability or other obligation to you, except as described under Section 4.4 (Changes to the Service; Deprecation Policy).

**13.4** Nothing in this clause 13 will affect Medipass' rights under Section 4 (Provision of Service by Medipass).

**13.5** When this legal agreement comes to an end, those Terms that by their nature are intended to continue indefinitely will continue to apply.

## **14. Limitations Of Liability.**

**14.1** You expressly understand and agree that your use of the service and the content is at your sole risk and that the service and the content are provided "as is" and "as available." In particular, Medipass, its subsidiaries and affiliates, and its licensors and their suppliers, do not represent or warrant to you that:

1. The service will meet your requirements;
2. The service will be uninterrupted, timely, secure, or error-free;
3. The service will be accurate or reliable; and
4. Defects in the operation or functionality of any software provided to you as part of the service will be corrected.

**14.2** Any content obtained through the Medipass services is at your own discretion and risk and you will be solely responsible for any damage to your computer system or other device, loss of data, or any other damage or injury that results from downloading or using any such content.

**14.3 Disclaimer.** Except as expressly provided herein, neither party makes any representations, warranties, conditions or guarantees of any kind, whether express, implied, statutory or otherwise, and each party specifically disclaims all implied representations, warranties, conditions and guarantees including any representations, warranties, conditions or guarantees of merchantability or fitness for a particular purpose, to the maximum extent permitted by applicable law.

**14.4 Liability Cap.** To the extent permitted by law, our cumulative liability to you in respect of all claims made by you under or in connection with these Terms, whether arising out of breach of contract, negligence or any other tort, misrepresentation, under statute or otherwise, will not exceed in the aggregate the amount paid by you to us for the Services in the 12 months immediately preceding the claim. In these Terms, claim means claim, cause of action, suit, proceedings, judgment, debt, fine, penalty, damage, loss, cost, expense or liability of any kind.

**14.5 No Consequential Loss Liability.** In no event shall either party have any liability to the other party for any lost profits or revenues, loss of data, loss arising from interruption to business, loss of goodwill or for any indirect, special, incidental, consequential or punitive damages however caused, whether in contract, tort, misrepresentation or under any other theory of liability, and whether or not the party has been advised of the possibility of such damages.

## **15. Indemnities.**

**15.1** You will defend and indemnify Medipass and its affiliates, directors, officers, employees, strategic partners, licensors, and their suppliers (the "**Indemnified Parties**") against all liabilities, damages, losses, costs, fees (including legal fees), and expenses relating to any allegation or third-party legal proceeding to the extent arising from:

1. your use of the Service or the Content in breach of the Terms or applicable policies;
2. your Medipass API Implementation, including any claim that your Medipass API Implementation infringes a third party's rights or violates applicable law; or
3. Your Content.

**15.2** You will cooperate as fully as reasonably required in the defense of any allegation or third-party legal proceeding. Medipass reserves the right, at its own expense, to assume the exclusive control and defense of any indemnified matter under this clause 15.

## **17. General Legal Terms.**

**17.1 Notices.** Medipass may provide you with notices, including those regarding changes to the Terms, by email, regular mail, or postings on the Service.

**17.2 Assignment.** Medipass may assign any part of this agreement without written consent.

**17.3 No Waiver.** Medipass will not be treated as having waived any rights by not exercising (or delaying the exercise of) any rights under these Terms. A waiver will be effective only if Medipass expressly states in a writing signed by an authorized representative that Medipass is waiving a specified Term.

**17.4 Entire Agreement.** These Terms set out all terms agreed between the parties and supersede all other agreements between the parties relating to its subject matter.



**17.5 Severability.** If any term (or part of a term) of these Terms is invalid, illegal or unenforceable, the rest of the Terms will remain in effect.

**17.6 Equitable Relief.** You understand and agree that damages for improper use of the Medipass API(s) may be irreparable; therefore, Medipass is entitled to seek equitable relief, including injunctions in any jurisdiction, in addition to all other remedies it may have.

**17.7 Governing Law.** This agreement is governed by the law of Victoria, Australia and the parties submit to the non-exclusive jurisdiction of the courts of Victoria, Australia and to courts of appeal from them.