

## Exhibitor Terms and Conditions

### **DEFINITIONS:**

"HIMSS" shall mean the Healthcare Information and Management Systems Society, an Illinois not-for-profit corporation, with its principal office at 33 West Monroe Street, Suite 1700, Chicago, Illinois 60603.

"Exhibitor" or "Company" shall mean the organization that signs this Agreement.

"Event" shall mean the HIMSS21 Global Conference & Exhibition.

"Venue" shall mean HIMSS21 designated exhibition space in Las Vegas, NV, which may include Sands Expo, Caesars Forum, and Wynn Las Vegas.

"Specialty Booths" are defined as specialty pavilions, showcases, and other specialized participation areas of the Event such as, for example, exhibition turnkey package, speaking session, and marketing.

A "Regular Booth" is defined as a booth that is **not** a Specialty Booth.

The "Event Service Manual" is located on the HIMSS conference website at <https://www.himssconference.org/exhibition/h21-service-manual>, the content of which is fully incorporated by reference herein.

"Agreement" shall mean the Exhibitor Terms and Conditions, the General Terms and Conditions, the Cover Page and any additional content expressly incorporated herein by reference, including but not limited to, the Event Service Manual

**CANCELLATIONS:** Exhibitor must notify HIMSS of its intent to cancel this Agreement in writing through an authorized company representative. If Exhibitor's notice of cancellation is received on or before February 4, 2021, HIMSS will retain 50% of the total fees due under this Agreement. If Exhibitor's notice of cancellation is received on or after February 5, 2021, HIMSS will retain 100% of the total fees due under this Agreement. Upon Exhibitor's cancellation of this Agreement, HIMSS reserves the right to withhold delivery of its obligations under Exhibitor's Event-related agreements, including, without limitation: 1) to cancel Exhibitor's ordered advertisements 2) to cancel Exhibitor's reserved hospitality space; 3) to cancel Exhibitor's reserved hotel sleeping room blocks in conference hotels; and 4) to cancel all other sponsorship opportunity agreements entered into by Exhibitor related to the Event. Cancellation of contracted space may also result in immediate forfeiture of all of Exhibitor's associated exhibitor points and Event badge allotment.

**FINANCIAL TERMS AND CONDITIONS:** Exhibitor agrees to pay all deposits and fees as set forth in this Agreement. HIMSS reserves the right, in its sole and exclusive discretion, to release and reassign exhibit space opportunities, including contracted space and/or exhibit space, in the event that Exhibitor fails to remit all deposits and fees due hereunder. HIMSS reserves the right to withhold delivery of its obligations under this Agreement, including, without limitation, to refuse Exhibitor's exhibit freight, withdraw Exhibitor's Event badge allotment, withhold contracted space and/or exhibit space materials until Exhibitor remits payment in full, all outstanding amounts due under this Agreement and all other exhibit space agreements that Exhibitor may enter into with HIMSS in connection with this Event. Exhibitor's failure to remit payment in full for fees prior to the start of the Event will result in Exhibitor's forfeiture of all fees previously paid to HIMSS for the Event.

**APPLICABILITY OF DISCOUNTS:** Exhibitors that receive discounts for Corporate Membership or Organizational Affiliate status must remain in good standing with such status, as applicable, through the duration of the Event. Failure of Exhibitor to maintain such Corporate Membership or Organizational Affiliate status in good standing will result in Exhibitor immediately forfeiting the discount for such Corporate Membership or Organizational Affiliate Status and HIMSS will invoice Exhibitor for the balance of the regular rate applicable at the time of space reservation, which shall be immediately due and payable.

**EXHIBITOR ELIGIBILITY:** The Event exhibition is intended to demonstrate products and services for healthcare information and/or technology professionals. HIMSS, in its sole and exclusive discretion, shall determine Exhibitor's eligibility to participate in the Event. HIMSS may refuse rental of exhibit space to Exhibitor, or remove Exhibitor from the Event exhibition hall, if, in the sole and exclusive discretion of HIMSS, Exhibitor's display of goods or services is not compatible with the character and objectives of the Event exhibition. In the event HIMSS initially deems Exhibitor to be eligible to participate in the Event, but later determines that it is not eligible, then Exhibitor's prepaid space rental fees and deposits will be forfeited, in accordance with the "Cancellations" provision above.

**SPACE REDUCTIONS:** HIMSS may, but is not required to, grant Exhibitor requests to reduce size of contracted space in its sole discretion. In the event HIMSS grants Exhibitor's request to reduce contracted space size, HIMSS may relocate Exhibitor's contracted space, in the sole and exclusive discretion of HIMSS. HIMSS will also proportionately reduce the following: 1) Exhibitor's exhibitor points, 2) Exhibitor's hotel sleeping room blocks, and 3) Exhibitor's Event badge allotment, where applicable. In the event HIMSS grants a request to reduce contracted space size, Exhibitor will be obligated to pay 50% of total fees for released space when HIMSS receives such request on or before February 4, 2021; or 100% of total fees for released space when HIMSS receives such request on or after February 5, 2021.

**SUBLETTING AND TRANSFERS:** Exhibitor may not assign, sublet, or share its contracted space with another business or firm without prior written approval from HIMSS, which may be granted in HIMSS' sole discretion. In the event that HIMSS grants Exhibitor's request to transfer its contracted space, in whole or in part, to another company, Exhibitor shall be subject to the space reduction (see "Space Reductions" above) and/or cancellation policies (see "Cancellations" above).

**SPECIAL PARTICIPATION RULES:** Where applicable for Specialty Booths of the Event, Exhibitor must adhere to all posted participation requirements outlined in the HIMSS Event Service Manual. For testing and exhibition demonstrations, Exhibitor agrees to ensure the timely arrival of its designated speaker(s), and to take direction from Event technical project management and Event staff as necessary in order to successfully execute the testing and exhibition demonstration. Exhibitor's failure to ensure timely arrival of its speaker(s) and/or, in the reasonable judgment of HIMSS, to promptly correct violations or to comply with directives from HIMSS or other designees of HIMSS (such as, but not limited to, technical management and Event staff), will result in HIMSS excluding Exhibitor from further participation in the testing and/or demonstration process, including demonstration at future HIMSS.

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**ACCESS TO EVENT:** Each individual representative of Exhibitor is required to wear an Event badge for entry into the Event. Only Exhibitors will be permitted to enter the Event exhibition hall outside of posted hours pursuant to the rules stated in the Event Service Manual. Exhibitor's allocated Event badges are not transferable. Event staff will confiscate Exhibitor's Event badges that are worn by another individual other than the person to whom the Event badge is issued. HIMSS reserves the right to withhold delivery of its obligations under this Agreement, including, without limitation, to refuse Exhibitor's exhibit freight, withdraw Exhibitor's Event badge allotment, and withhold contracted space and/or exhibit space materials if Exhibitor violates this rule.

**OFFICIAL HOUSING:** Exhibitors are required to utilize the official HIMSS Event housing bureau, onPeak, for all housing accommodations associated with the Event. HIMSS reserves the right to withhold delivery of its obligations under this Agreement, including, without limitation, to refuse Exhibitor's exhibit freight, withdraw Exhibitor's Event badge allotment, and withhold contracted space and/or exhibit space materials if Exhibitor violates this rule.

**CONDUCT OF EXHIBITOR:** Exhibitor is permitted to conduct business only within the confines of its contracted exhibit space at Event. Only authorized representatives of Exhibitor are permitted to: (i) display or demonstrate any products, processes, or services, to fulfill orders, (ii) to wear identification of Exhibitor's company or organization, or (iii) to distribute advertising or other materials within the confines of the Exhibitor's exhibit space. Exhibitor must show goods or services manufactured or dealt in by Exhibitor in the regular course of business. Should an article of a non-exhibiting firm be required for operation or demonstration in an Exhibitor's display, identification of such article shall be limited to the usual and regular nameplates imprint, or trademark under which same is sold in the general course of business. Marketing material matter of any description may be used or distributed only within the space assigned to the Exhibitor presenting such material. Only media and literature published and approved by HIMSS may be distributed at the registration desk, in the registration area, in the meeting rooms, in the exposition areas, in public areas, hotels with HIMSS housing block or in transportation areas under lease to HIMSS. No photography or videography is allowed by any photographer other than the designated Event photographer of HIMSS without prior written approval from HIMSS. Exhibitor may not enter the exhibit space of other exhibitors without invitation; nor may Exhibitor call or invite a visitor out of one exhibit and into its own. The following are prohibited: the use of noisemakers, promotions and presentations that may be judged by HIMSS, in its sole and exclusive discretion, as not in good taste, lacking in dignity, or not in keeping with the purpose of HIMSS. Exhibitor use of audio and visual equipment will be permitted, where appropriate to the display; however, sound must be maintained at not more than a level of 75 decibels. HIMSS reserves the right to restrict Exhibitors' use of sound and other devices which exceed 75 decibels and interferes with the best interests of the exhibition as a whole. The violation of any of these rules is grounds for downward adjustment or loss of Exhibitor's exhibitor points, and/or dismissal from Event exhibition hall and/or the Event with forfeiture of all associated monies.

**COMPLIANCE WITH EVENT RULES:** Exhibitor must contract exhibit space/meeting space with HIMSS in order to host functions in conjunction with the Event outside of posted conference hours. Exhibitor must comply with all conditions, rules and regulations imposed by the Venue and its management. Exhibitor shall comply with assigned move-in and installation days and hours as specified in the HIMSS Event Service Manual and agrees that its exhibit may not be removed from the exhibit hall until the official closing of the Event. Exhibitor expressly agree to comply with the Event Service Manual (including, but not limited to, the rules and regulations therein) and all directions from Event staff. Exhibitor is wholly liable for all damage caused whether directly by Exhibitor, or by Exhibitor's agents, to building floors, walls, or columns, or to standard booth equipment, or to other Exhibitor's property. Exhibitor may not mark, tack, make holes, and apply paint, lacquer, adhesives, or other coating to building columns, walls, ceilings, floors or to standard booth equipment. Exhibitor will be wholly responsible for labor charges incurred in connection with the assembly, draping, repairs, and dismantling of contracted exhibit booth(s). All construction material must conform to standard safety practices. All display materials, including table, drape, textile, paper displays, and decorations, must be fire resistant or flame proof. Combustible decorations are prohibited all times. Exhibitor must remove all packaging containers and materials from the Event exhibition hall and/or other contracted space and may not be stored under tables or behind displays. Exhibitor must maintain all aisles, corridors, exit areas, and stairways in and around Exhibitor's contracted space at their required width at all times during the Event. Obstructions protruding into the aisles of the exhibition or in other areas of contracted space are prohibited. Photography or videography of another company's exhibit is strictly prohibited. Exhibitor acknowledges and agrees that Exhibitor is charged with knowledge of all laws, ordinances, and regulations pertaining to health, fire prevention, and public safety while participating in the Event. Compliance with all such laws, ordinances, and regulations is mandatory and is the sole responsibility of Exhibitor. The violation of any of the foregoing is grounds for downward adjustment or loss of 1) Exhibitor's exhibitor points, 2) Exhibitor's hotel sleeping room blocks, 3) Exhibitor's Event badge allotment, where applicable, and/or dismissal from Event exhibition hall and/or the Event with forfeiture of all associated monies.

### **General Terms and Conditions**

**INDEMNIFICATION:** Company shall defend, indemnify, protect, save, and hold HIMSS and its officers, directors, employees and agents and the Venue, and all agents and employees thereof, (hereinafter collectively called "Indemnitees") forever harmless from any losses, costs, damages, liabilities, claims, demands, expenses (including attorney's fees), or actions arising out of the actions or inactions of Company, its servants, directors, officers, employees, contractors, agents, or business invitees. For the avoidance of doubt, Company's indemnification obligation shall extend to claims for actual or alleged (a) injury to any person, (b) damage to any property, (c) economic loss, (d) business and/or production loss, (e) product or service deficiencies or damage, (f) infringement of any third-party intellectual property, industrial property or proprietary right; and (f) violation of any statute, law, ordinance, regulation, rule, or order, including but not limited to claims arising therefrom, as well as claims arising from the alleged action, inaction, negligence, recklessness, or willful or knowing conduct of Company. Company shall at all times defend, protect, indemnify, save, and hold harmless the Indemnitees against and from any and all losses, costs, damages, liability, claims, demands, expenses (including attorney's fees), or actions arising from or out of or by reason of any accident or bodily injury or other occurrences to any property, person or persons, including Company, its servants, directors, officers, employees, contractors, agents, and business invitees which arise from or out of or by reason of said Company's occupancy and use of the Venue, or any part thereof.

**INSURANCE:** All property of the Company is understood to remain under its custody and control in transit to and from and/or within the confines of the Venue. HIMSS and Venue do not maintain insurance covering Company's property and will not be responsible for damage to, loss, or theft of property

belonging to Company, its servants, directors, officers, employees, contractors, agents, business invitees, visitors or guests. Company shall carry Comprehensive General Liability coverage, including bodily injury, fire legal liability, personal and advertising liability, products and completed operations, and contractual liability coverage of at least \$1 Million per occurrence/\$2 Million General Aggregate and \$1 Million per Occurrence for Property Damage Liability. Further, Company shall carry statutory Worker's Compensation coverage in full compliance with all federal and state laws covering all of the Company's employees with Employers Liability (Coverage B) limits of not less than \$500,000/\$500,000/\$500,000. Workers Compensation must include a waiver of rights to recover against additional insureds listed on the Certificate of Insurance. Company shall carry automobile liability insurance that includes all owned, non-owned, and hired vehicles with limits of \$1 Million per accident. Each of Company's policies listed above must include HIMSS and its subsidiaries, affiliates, officers, directors and employees as additional insureds under ISO form CG2026. Certificate and endorsements must state that the General Liability Insurance is primary and will not seek contribution from any insurance available to the additional insureds. Company must provide a Certificate of Insurance to HIMSS documenting fulfillment of these requirements upon full execution of this Agreement.

**FORCE MAJEURE:** In the event that performance by HIMSS, the Venue, or any part of the exhibit area or sponsorship space is unavailable whether for the entire Event, or a portion of the Event, as a result of any cause or agency over which HIMSS has no control, including but not limited to, fire, flood, tempest, inclement weather, formal or informal governmental intervention, malicious damage, act of God, war, strike, lock-out, labor dispute, riot, terrorist acts, curtailment of transportation, pandemic, epidemic or contagious disease, or should HIMSS decide that because of any such cause that it is necessary to cancel, postpone or re-site the Event, or reduce the move-in and installation time, exhibition time, or move-out time, HIMSS shall be excused from any failure to perform under this Agreement. If HIMSS cancels or postpones the Event pursuant to this provision, HIMSS will permit Company to apply fifty percent (50%) of the total fees paid under this Agreement to a subsequent HIMSS event occurring within fourteen (14) months of the date of the Event subject to this Agreement, as mutually agreed upon by the parties. Such application of funds shall be Company's sole remedy in the event of cancellation or postponement of the Event, and HIMSS shall not be liable to indemnify or reimburse or to otherwise refund the Company in respect of any fees, deposits, payments, costs, expenses, damages or losses of any kind, whether direct or indirect, arising as a result thereof.

**GDPR AND OTHER DATA PROTECTION LAWS:** Company represents, warrants, and covenants that, to the extent it discloses to HIMSS any personal data in connection with, or for purposes of, HIMSS' provision of the Services, it will do so in accordance with all applicable laws including, without limitation, the General Data Protection Regulation 2016/679 and the UK Data Protection Act 2018.

**COMPLIANCE WITH LAWS:** Company agrees to comply with all applicable laws, statutes, regulations, and codes relating to anti-bribery and anti-corruption including, but not limited to, the United States Foreign Corrupt Practices Act, UK Bribery Act, and any other applicable local anti-corruption legislation

**PUBLICITY:** Company acknowledges and agrees that HIMSS may publicly refer to Company as a "Sponsor" and/or "Exhibitor" of HIMSS and, in connection with such public reference, may use Company's name, brand, and related marks in any media and on any platform. Company further acknowledges and agrees that while acting as a Sponsor and/or Exhibitor, it shall not infringe any third-party copyright, trademark, or other similar intellectual property right and shall comply with all laws related thereto.

**INTELLECTUAL PROPERTY:** Company represents and warrants that it shall not violate any copyright, trademark, or other similar intellectual property and industrial property laws and regulations. Company represents, warrants, and covenants that Company shall obtain any licenses, written grants of authority, and/or written permissions, in accordance with all such applicable intellectual property and industrial property laws and regulations. Company shall provide HIMSS with a copy of such licenses, written grants of authority, and/or written permissions no less than thirty (30) days prior to the start of the

Event. Notwithstanding anything to the contrary herein, Company understands and acknowledges that Company is solely responsible for securing any such licenses, written grants of authority, and/or written permissions and otherwise complying with any applicable intellectual property and industrial property laws and regulations (including, but not limited to, those related to copyrights and trademarks). Notwithstanding anything to the contrary herein, Company shall comply with any license HIMSS may obtain (in the sole and exclusive discretion of HIMSS). In avoidance of any doubt, HIMSS has the right, but not the obligation, to obtain any such licenses.

**COMPLAINTS:** Complaints of any violation of these terms and conditions are to be made promptly to HIMSS and its representatives. Company and its representatives agree to abide by the decisions of HIMSS.

**ACCEPTABLE CONDUCT:** Company and Company's officers, directors, employees and agents are expected to behave responsibly and to treat each other - and treat the community - with respect, kindness, and compassion. HIMSS reserves the right, without refund, to revoke the credentials of any participants whose conduct is deemed inappropriate, disorderly, or offensive by HIMSS, Venue, or local or federal authorities.

**AMENDMENTS:** Any and all matters not specifically covered herein and in the Event Service Manual are subject to the decision of HIMSS, in its sole and exclusive discretion. HIMSS shall have the full and exclusive power to interpret, amend, and enforce this Agreement. Company, for itself and its employees, agrees to abide by the terms and conditions as set forth herein and by any amendments or additions thereto in conformance with the preceding sentence. Violation of these terms and conditions is grounds for dismissal from the Event and forfeiture of all associated monies.

**DISPUTE RESOLUTION AND ARBITRATION:** Any and all disputes, controversies or claims, whether in contract, tort, statute or otherwise, arising out of or related to this Agreement shall be fully and exclusively resolved and settled through final and binding arbitration conducted under the Rules of Arbitration of the International Chamber of Commerce (as those rules existed on July 1, 2020) by one arbitrator appointed in accordance with said Rules. The Rules shall govern the costs, fees and expenses of arbitration. No party, however, shall be responsible for the attorneys' fees and related expenses of any other party. The arbitrator shall have exclusive authority to resolve questions of arbitrability, including arising out of or related to the interpretation, scope, applicability, enforceability, formation or termination of this Agreement (or any part thereof) as well as the arbitrator's jurisdiction. The language of

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the arbitration shall be English. The place of arbitration shall be Chicago, Illinois. Except as may be required by law, neither a party nor an arbitrator may disclose the existence, content or results of any arbitration hereunder without the prior written consent of both parties. This Agreement evidences a transaction in interstate commerce, and the Federal Arbitration Act, 9 U.S.C. § 1, et seq., governs the interpretation and enforcement of this provision.

**WAIVER OF CLASS AND OTHER REPRESENTATIVE ACTIONS:** The parties agree that any dispute resolution proceedings will be conducted ONLY ON AN INDIVIDUAL BASIS AND NOT IN A CLASS, CONSOLIDATED, OR REPRESENTATIVE ACTION. Unless both parties agree otherwise, the arbitrator may not consolidate, combine or jointly arbitrate Exhibitor's and another person's claim and may not otherwise preside over any form of a class or representative proceeding.

**BY AGREEING TO THE FOREGOING TWO PROVISIONS, THE PARTIES UNDERSTAND THAT THEY ARE WAIVING ANY RIGHT TO SUE IN COURT AND HAVE A JURY TRIAL AS WELL AS ANY RIGHT TO PARTICIPATE IN A CLASS ACTION PROCEEDING OR IN A REPRESENTATIVE ACTION.**

**GOVERNING LAW AND VENUE:** This Agreement is made in the State of Illinois and shall be governed exclusively by the substantive laws of such state without giving effect to any conflict-of-laws rules requiring the application of the substantive law of any other jurisdiction. For any and all court proceedings, if any, arising out of or relating to this Agreement, and not waived by and subject to the Dispute Resolution and Arbitration provision above, the parties knowingly and voluntarily consent to the jurisdiction and venue of the federal court for the Northern District of Illinois or any state court in the State of Illinois, Cook County.

**NO WAIVER:** The failure of either party to object to or to take affirmative action with respect to any conduct of the other party which is in violation of the terms hereof shall not be construed as a waiver thereof, nor of any subsequent breach or wrongful conduct. The rights and remedies set forth herein are intended to be cumulative, and the exercise or non-exercise of any right or remedy by either party shall not preclude or waive its exercise of any other right or remedy hereunder or pursuant to law or equity. Any waiver of rights or remedies must be made in writing signed by authorized representatives of both parties and specifically referring to this agreement.

**NO ASSIGNMENT OR TRANSFER:** The Agreement may not be assigned to another entity without prior written consent from HIMSS.

**RELATIONSHIP BETWEEN PARTIES:** This Agreement does not represent a joint venture between HIMSS and the Company; each shall retain the status of independent contractor and shall not have the authority to bind or represent the other.

**CONFLICT OR INCONSISTENCY OF TERMS:** Notwithstanding anything to the contrary herein, in the event of a conflict or inconsistency between the Event Service Manual and this Agreement, the Event Service Manual shall control. Headings have been inserted for the convenience of reference only, and if there is any conflict or inconsistency between any such headings and the text of this Agreement, the text shall control.

**SEVERABILITY:** If any portion, section, or provision of this Agreement as applied to either party or to any circumstances shall be deemed to be void or unenforceable, the same shall in no way affect any other portion, section, or provision of this Agreement or the validity or enforceability of this Agreement. In the event any restriction set forth in this Agreement is determined to be unreasonable or unenforceable with respect to scope, time, geographical or customer coverage, Company agrees that such a restriction or restriction may be modified and narrowed, either by an arbitrator or by HIMSS, so as to provide the maximum legally enforceable protection of HIMSS' interests and without negating or impairing any other restrictions or agreements set forth herein.

**COUNTERPARTS:** This Agreement may be executed in one or more counterparts, each of which shall be considered an original, and all of which shall be considered one and the same instrument.

**SURVIVAL:** The following provisions shall survive the termination or expiration of this Agreement and shall remain in full force and effect (in addition to any other provisions that are reasonably expected to survive the termination or expiration of this Agreement): Indemnification, Intellectual Property, Dispute Resolution and Arbitration, Governing Law and Venue, and Severability.

**ENTIRE AGREEMENT:** This Agreement, together with the Event Service Manual, constitutes the final, complete, and exclusive understanding between the parties with respect to its subject matter and supersedes all prior or contemporaneous agreements in regard thereto. The parties have not relied upon any promises, warranties, or undertakings other than those expressly set forth in this Agreement. Nothing in this Agreement shall give any person, other than the parties to this Agreement or their respective successors or permitted assigns, any legal or equitable right, remedy, or claim under this Agreement except that the parties may enforce their rights thereunder.

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