



# Pumpkin PawPortal™ Terms of Use

**Last Modified: April 19, 2021**

These terms of use are entered into by and between You (as a veterinarian or veterinary practice) and Pumpkin Insurance Services Inc., (“Pumpkin”, “we” or “us”). The following terms and conditions, together with any documents they expressly incorporate by reference (collectively, these “**Terms of Use**” or “**Terms**”), govern your and your authorized users’ registration with, access to and use of [www.Portal.Pumpkin.care](http://www.Portal.Pumpkin.care) (collectively, the “**PawPortal**”), including any content, functionality, resources, tools and other services offered by us on or through the PawPortal (collectively, the “**Services**”). All references to “**you**” and “**your**” in these Terms of Use includes you and your authorized users unless otherwise specifically stated.

PLEASE READ THE TERMS OF USE CAREFULLY BEFORE YOU REGISTER FOR A PAWPORTAL ACCOUNT OR START TO USE THE SERVICES. BY USING THE SERVICES, YOU ACCEPT AND AGREE TO BE BOUND AND ABIDE BY THESE TERMS OF USE. IF YOU DO NOT WANT TO AGREE TO THESE TERMS OF USE, YOU MUST NOT ACCESS OR USE THE PAWPORTAL OR THE SERVICES. THIS PAWPORTAL IS A BUSINESS-TO-BUSINESS PAWPORTAL AND IS NOT INTENDED FOR CONSUMER USE. IF YOU ARE ACCESSING THE PAWPORTAL AS A CONSUMER AND NOT A BUSINESS, YOU SHOULD NOT USE THIS PAWPORTAL OR ITS SERVICES.

The Services are offered and available to business users who are 18 years of age or older. By using the Services, you represent and warrant that: you are a business user, you meet the age requirements, you have authority to act on behalf of your business, and if you do not, you must not access or use the Services.

## **CHANGES TO THE TERMS OF USE.**

We may revise and update these Terms of Use from time to time at our sole discretion. Unless otherwise noted, all changes are effective immediately when we post them, and apply to all access to and use of the Services. Your continued use of the Services following the posting of revised Terms of Use means that you accept and agree to the changes. You are expected to check this page regularly so you are aware of any changes, as they are binding on you.

## **ACCESSING THE SERVICES AND ACCOUNT SECURITY.**

We reserve the right to withdraw or modify the Services in our sole discretion without notice. We will not be liable if for any reason all or any part of the Services are unavailable at any time or for any period. From time to time, we may restrict access to all or part of the Services, or to all users of the Services, including registered users. You are responsible for making all arrangements necessary for you and persons you authorize to have access to the Services, and ensuring that all persons whom you authorize to access the Services through your Internet connection are aware of these Terms of Use and comply with them.

To access the Services, you may be asked to provide certain registration details or other information. It is a condition of your use of the Services that all the information you provide related to your access of the Services is correct, current, and complete. You agree that all information you or your authorized users provide to register with the Services or otherwise, including but not limited to through the use of any interactive features on the PawPortal, is governed by our Privacy Notice for [www.Pumpkin.care](http://www.Pumpkin.care), and you consent to all actions we take with respect to the information you and your authorized users have provided consistent with our Privacy Notice.

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 share it or disclose it to any other person or entity. You also acknowledge that your account is personal to you and agree not to provide any other person with access to the Services or portions of it using your username, password or other security information. You agree to notify us immediately of any unauthorized access to or use of your account, username or password or any other breach of security. You also agree to ensure that you exit from your account at the end of each session. If you are using a public or shared computer, your account log-in information may be stored in the browser history. 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, including clearing the browser data or browser history as applicable to prevent unauthorized access to your account. We have the right to disable any user name, password or other identifier, whether chosen by you or provided by us, at any time in our sole discretion for any or no reason, including if, in our opinion, you have violated any provision of these Terms of Use.

## **INTELLECTUAL PROPERTY RIGHTS.**

Ownership. The Service and all content related thereto, including without limitation, all data, text, software, graphics, photos, sounds, videos, recordings, interactive features, and any trademarks, service marks, and logos contained in the Service or related to Pumpkin or PawPortal (collectively, “**Materials**”) are owned by Pumpkin or licensed to us, subject to copyright, trademark, and other intellectual property rights under United States and foreign laws and international conventions. Subject to the foregoing, you own any and all content and

materials that you may upload to the Service from time to time or have secured the rights from the owner of such content and materials (“**User-Uploaded Content**”) and hereby grant Pumpkin a nonexclusive, worldwide, fully-paid up, royalty-free license to display, improve, or otherwise use any User-Uploaded Content to provide and render the Service to you and to render or otherwise facilitate the delivery of any services to end customers. Pumpkin may provide User-Uploaded Content and other data on the Service available for your download and own commercial use. Irrespective of the availability of any User-Uploaded Content or data available for download, you are solely responsible for maintaining and keeping backup copies of all User-Uploaded Content. Pumpkin is not responsible for and hereby disclaims any and all liability for any lost data or corrupted data concerning or relating to any User-Uploaded Content or the Service. For the avoidance of doubt, Materials do not contain any User Uploaded Content.

Ownership. The Service and all content related thereto, including without limitation, all data, text, software, graphics, photos, sounds, videos, recordings, interactive features, and any trademarks, service marks, and logos contained in the Service or related to Pumpkin or PawPortal (collectively, “**Materials**”) are owned by Pumpkin or licensed to us, subject to copyright, trademark, and other intellectual property rights under United States and foreign laws and international conventions. Subject to the foregoing, you own any and all content and materials that you may upload to the Service from time to time or have secured the rights from the owner of such content and materials (“**User-Uploaded Content**”) and hereby grant Pumpkin a nonexclusive, worldwide, fully-paid up, royalty-free license to display, improve, or otherwise use any User-Uploaded Content to provide and render the Service to you and to render or otherwise facilitate the delivery of any services to end customers. Pumpkin may provide User-Uploaded Content and other data on the Service available for your download and own commercial use. Irrespective of the availability of any User-Uploaded Content or data available for download, you are solely responsible for maintaining and keeping backup copies of all User-Uploaded Content. Pumpkin is not responsible for and hereby disclaims any and all liability for any lost data or corrupted data concerning or relating to any User-Uploaded Content or the Service. For the avoidance of doubt, Materials do not contain any User Uploaded Content.

Restrictions on Use of Materials. No Materials from the Service may be copied, reproduced, republished, uploaded, posted, transmitted, or distributed in any way without the prior written consent of Pumpkin. You agree not to circumvent, disable, or otherwise interfere with security related features of the Service or features that prevent or restrict use or copying of any Materials or content. Modification of any Materials or unauthorized use of any Materials is a violation of our copyrights and proprietary rights, or of other entities or persons where so indicated, unless we or the owner has provided such Materials for such express purpose in writing and in advance of any such use. All design rights, databases, and compilation and other intellectual property rights associated with the Service, in each case whether registered or unregistered, and related goodwill, are proprietary to Pumpkin.

License Grant. Subject to the terms and conditions of these Terms, Pumpkin grants you a non-exclusive, revocable, limited license to access and use the Service solely for the purposes set forth in these Terms. This license will terminate upon any termination of the Terms or upon any suspension, termination, or cancellation of your access to the Service.

Additional Restrictions. You agree not to do any of the following: (a) reverse engineer, decompile, disassemble, translate, modify, alter or otherwise change the Service, or any part thereof; (b) attempt to derive the source code or structure of the Service, or any part thereof; (c) remove from the Service, or alter, any of Pumpkin's or any of our licensors' trademarks, trade names, logos, patent or copyright notices, or other notices or markings; or (d) distribute, sublicense or otherwise transfer access to the Service to others.

Feedback. You are under no obligation to provide Pumpkin with any feedback, corrections, or suggestions regarding the Service. In the event that you provide any Feedback to Pumpkin regarding the Services, including any improvements, corrections, or modifications thereto (collectively, "Feedback"), you hereby grant to Pumpkin a world-wide, fully-paid-up and royalty-free, perpetual, irrevocable, non-terminable, non-exclusive right to integrate and use and otherwise exploit all such Feedback in Pumpkin's products and services, including the Service, without restriction.

## **CONFIDENTIAL INFORMATION**

"**Confidential Information,**" as used in these Terms, shall mean: (i) information described in writing as, or documents marked as "confidential" by Pumpkin, or data or documents provided by Pumpkin as part of the Services that by their nature fall within the purview of these Terms, including but not limited to policy forms, policy descriptions, non-insurance plans forms and descriptions, financial information, private personal information, claims data, claims management procedures, policy and non-insurance plan information, marketing data, marketing procedures, experience studies, any information or documents related to Pumpkin's trade secrets, technology, know-how, products, potential products, services, potential services, markets and/or business information and all other documentation and information provided by Pumpkin in connection with the Services, whether disclosed or provided electronically, orally, or in writing, regardless of the media being used, before or after the beginning of the Services; (ii) or personally identifiable or private information of the policyholders of Pumpkin or any of its affiliates or of its or their employees, or any information of Disclosing Party that is or may be protected pursuant to the Gramm-Leach-Bliley Act, Pub. L. No. 106-102, 113 Stat. 1338 (1999) or any amendments thereto; any other federal, state or local laws, regulations or ordinances governing the privacy of personal information, (such laws, regulations and ordinances shall be referred to herein as "Privacy Law(s)" and such personally identifiable or private information shall be referred to herein as "Personal Information").

You agree to protect all Confidential Information in accordance with these Terms, and not to disclose, reproduce, use, or transfer any Confidential Information to any third party other than

for your own commercial use and then only as permitted herein. With respect to all Confidential Information, you agree to use at least the same degree of care and protection that you exercise with respect to your own confidential information of a similar nature and no less than a standard level of care. To the extent that you disclose Confidential Information to your employees or authorized users you take full and complete responsibility to inform your respective employees or authorized users of the duty of confidentiality imposed by these Terms and the ultimate responsibility of you for compliance herewith.

## **PROHIBITED USES.**

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

- In any way that violates any applicable federal, state, local or international law or regulation (including, without limitation, any laws or regulation regarding the sale or solicitation of insurance).
- For the purpose of exploiting, harming or attempting to exploit or harm minors in any way by exposing them to inappropriate content, asking for personally identifiable information or otherwise.
- To send, knowingly receive, upload, download, use or re-use any User-Uploaded Content which does not comply with the Content Standards set out in these Terms of Use.
- To transmit, or procure the sending of, any advertising or promotional material [without our prior written consent], including any “junk mail”, “chain letter” or “spam” or any other similar solicitation.
- To impersonate or attempt to impersonate Pumpkin, a Pumpkin employee, another user or any other person or entity (including, without limitation, by using e-mail addresses or screen names associated with any of the foregoing).
- To engage in any other conduct that restricts or inhibits anyone’s use or enjoyment of the Services, or which, as determined by us, may harm Pumpkin or users of the Services or expose them to liability.
- For the purpose of selling, renting, releasing, disclosing, disseminating, making available, transferring, or otherwise communicating Confidential Information to any third party for monetary or other valuable consideration.

## **MONITORING AND ENFORCEMENT; TERMINATION.**

We have the right to:

- Remove or refuse to post any portion or all of User-Uploaded Content for any or no reason in our sole discretion.
- Take any action with respect to any portion of User-Uploaded Content that we deem necessary or appropriate in our sole discretion, including if we believe that

User-Uploaded Content violates the Terms of Use, including the any Content Standards, infringes any intellectual property right or other right of any person or entity threatens the personal safety of users of the Services or the public or could create liability for Pumpkin.

- 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 the Services.
- Terminate or suspend your access to all or part of the Services 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 on or through the Services. YOU WAIVE AND HOLD HARMLESS PUMPKIN AND ITS AFFILIATES, LICENSEES AND SERVICE PROVIDERS FROM ANY CLAIMS RESULTING FROM ANY ACTION TAKEN BY 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 PUMPKIN OR LAW ENFORCEMENT AUTHORITIES.

However, we cannot undertake to review material before you or your authorized users post it on or within the Services and 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 of User-Uploaded Content and use of the Services. Your User-Uploaded Content must in its entirety comply with all applicable federal, state, local and international laws and regulations. Without limiting the foregoing, Your User-Uploaded Content 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 and our [Privacy Policy](#).

- 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 they 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 on or through the Services 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 the Services, or by anyone who may be informed of any of its contents.

This Services includes content provided by third parties, including materials provided by end-customers. All data, statements, records and/or opinions expressed or implied in these materials, and all articles and responses to questions and other content, are solely the responsibility of the person or entity providing those materials. We are not responsible or liable to you or to any third party for the content or accuracy of any materials provided by either Pumpkin or any third parties.

### **CHANGES TO THE SERVICES.**

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

### **PRIVACY POLICY.**

Pumpkin respects the privacy of PawPortal users. To understand our practices, please review our [Privacy Policy](#), incorporated herein by reference, which governs your use of PawPortal, By accessing the PawPortal you agree to be legally bound by the Privacy Policy.

## **DISCLAIMER OF WARRANTIES.**

You understand that we cannot and do not guarantee or warrant that files available for downloading from the internet or the Services will be free of viruses or other destructive code. You are responsible for implementing adequate and appropriate 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 THE SERVICES OR TO YOUR DOWNLOADING OF ANY MATERIAL POSTED ON THE PAWPORTAL, ON ANY WEBSITE LINKED TO IT OR OTHERWISE AVAILABLE THROUGH THE SERVICES.

YOUR USE OF THE SERVICES IS AT YOUR OWN RISK. ALL ASPECTS OF THE SERVICES ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS, WITHOUT ANY WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED. NEITHER PUMPKIN NOR ANY PERSON ASSOCIATED WITH PUMPKIN MAKES ANY WARRANTY OR REPRESENTATION WITH RESPECT TO THE COMPLETENESS, SECURITY, RELIABILITY, QUALITY, ACCURACY OR AVAILABILITY OF ANY ASPECT OF THE SERVICES. WITHOUT LIMITING THE FOREGOING, NEITHER PUMPKIN NOR ANYONE ASSOCIATED WITH PUMPKIN REPRESENTS OR WARRANTS THAT ANY ASPECT OF THE SERVICES WILL BE ACCURATE, RELIABLE, ERROR-FREE OR UNINTERRUPTED, THAT DEFECTS WILL BE CORRECTED, THAT OUR SITE OR THE SERVER THAT MAKES IT AVAILABLE ARE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS OR THAT ANY ASPECT OF THE SERVICES WILL OTHERWISE MEET YOUR NEEDS OR EXPECTATIONS.

PUMPKIN 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 PUMPKIN, 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, ANY ASPECT OF THE SERVICES OR ANY ASPECT OF A THIRD-PARTY SERVICE OR MATERIALS LINKED TO THE SERVICES, INCLUDING ANY DIRECT, 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. THE FOREGOING LIMITATIONS SHALL APPLY REGARDLESS OF WHETHER THE PARTIES HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND NOTWITHSTANDING THE FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY PROVIDED FOR HEREIN.

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 Pumpkin, 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 attorneys' fees) arising out of or relating to your violation of these Terms of Use or your use of the Services, including, but not limited to, User-Uploaded Content and any claims that the User-Uploaded Content violates, infringes, or misappropriates the patent, trademark, trade secret, copyright, or other proprietary rights of any party, any use of any aspect of the Services other than as expressly authorized in these Terms of Use or your use of any information obtained from the Services.

### **DISPUTE RESOLUTION & GOVERNING LAW.**

In the event of any dispute, claim, or controversy arising out of or relating to these Terms ("Dispute"), you and Pumpkin agree that any Dispute that cannot be resolved informally will be resolved in binding arbitration before a single, mutually agreed upon arbitrator. The arbitrator, and not any federal, state, or local court or agency, shall have exclusive authority to resolve any Dispute, including, but not limited to, any claim that all or any part of these terms are void or voidable, or whether a Dispute is subject to arbitration. You and Pumpkin hereby expressly waive trial by jury. The arbitration shall be administered by JAMS pursuant to the JAMS Streamlined Arbitration Rules & Procedures, available at [www.jamsadr.com](http://www.jamsadr.com).

You and Pumpkin further agree that any arbitration shall be conducted in their individual capacities only and not as a class action or other representative action, and the parties expressly waive their right to file a class action or seek relief on a class basis. YOU AND WE AGREE THAT EACH MAY BRING CLAIMS AGAINST THE OTHER ONLY IN YOUR OR ITS INDIVIDUAL CAPACITY, AND NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED CLASS OR REPRESENTATIVE PROCEEDING. Unless you and Pumpkin both agree, the arbitrator may not consolidate more than one person's claims. The arbitrator shall be empowered to grant whatever relief would be available in a court under law or in equity, including public injunctive relief.

In a Dispute involving U.S. \$25,000 or less, the arbitrator will hold any hearing by telephone or video, unless the arbitrator determines that good cause exists to justify an in-person hearing. Any in-person hearing will take place in New York, NY. Judgment on any award may be entered in any court having jurisdiction. You and Pumpkin agree that any Dispute must be filed within one (1) year from the date the Dispute first arose.

This agreement to arbitrate is subject to the Federal Arbitration Act and interpreting case law without regard to state law. To the extent state substantive law applies to the Dispute, the law of the State of New York shall apply, without regard to conflict of law provisions.

This Dispute Resolution & Governing Law provision shall survive the termination of these Terms and/or of your relationship with Pumpkin.

#### **WAIVER AND SEVERABILITY.**

No waiver of or by Pumpkin 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 Pumpkin 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.**

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

#### **YOUR COMMENTS AND CONCERNS.**

The PawPortal and Services are operated by Pumpkin Insurance Services Inc. 251 W 30<sup>th</sup> St. Suite 9W, New York NY 10001. All other feedback, comments, requests for technical support and other communications relating to the PawPortal and Services should be directed to: [hello@Pumpkin.care](mailto:hello@Pumpkin.care).