

# XenonChex Terms of Service

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## **XENON TERMS AND CONDITIONS**

**Updated August 11, 2020**

XenonChex, LLC. (“Xenon”, “we”, “us”, “our”, “The Company”), is the owner and operator of the website <https://www.xenonchex.com> and its landing pages (the “Site”). The following Terms and Conditions govern the use of the Site and Xenon Products (the “Products”). “Client”, “You” and “Your” refers to you, the person accessing this website and by doing so, accepts the Company’s Terms and Conditions. Please read these Terms and Conditions carefully.

Xenon reserves the right to alter these Terms and Conditions, with the new terms becoming effective as of the date of publishing, indicated at the beginning of the post. These terms are binding upon you and you should read them whenever you use the Site or Products.

### **PRIVACY**

Please review our [Privacy Policy](#), which governs your visit to the Site.

### **NO MEDICAL ADVICE**

Any information supplied through this website, software applications, services, or by any of our employees or agents, whether by telephone, e-mail, letter, fax, electronic communication, live chat or other form of communication, is for informational purposes or general guidance and does not constitute medical advice or diagnosis. Health-related information provided through this website is not a substitute for medical advice and it is important that you not make medical decisions without first consulting your personal physician or other healthcare professional. Xenon products and services are not intended to provide clinical diagnosis, nor to treat, cure or prevent any disease, and that for a medical evaluation of hearing health the purchaser should consult with a medical professional.

The receipt of any questions or feedback you submit to us does not create a professional relationship and does not create any privacy interests other than those described in our [Privacy Policy](#).

### **PERMITTED USE**

The Site and Products are not intended for anyone under 18 years of age. You warrant to Xenon that you will not use the Site or Products for anything that is unlawful or prohibited by these

Terms and Conditions or local laws and regulations. Xenon reserves the right to refuse service, discontinue transactions, terminate accounts, cancel orders, or disable Products at our sole discretion.

## **CHILDREN**

Xenon does not sell products or services for purchase by children. Children should not submit any Personal Information to us. If you are under 18 years of age, you may only use the Site with your parent or guardian. Parents should be aware that Xenon's [Privacy Policy](#) governs our use of Personal Information. That information which is voluntarily given by children or others in chat sessions, email exchanges, bulletin boards, live chats or the like may be used to generate unsolicited mail. Xenon encourages all parents to instruct their children about the safe and responsible use of their Personal Information while using the Internet.

## **YOUR ACCOUNT**

If you use this Site, you are responsible for maintaining the confidentiality of your account and other related login and account information and for restricting access to your computer, and you agree to accept responsibility for all activities that occur under your account or password. You agree to immediately notify us of any unauthorized use of your account or any other breach of security. In consideration of your use of this website, you agree to (a) provide true, accurate, current and complete information about yourself as prompted by the forms for your account, prescription and order information (the "Account Information") and (b) maintain and promptly update the Account Information to keep it true, accurate, current and complete. If you provide any information that is untrue, inaccurate, not current or incomplete, or we have reasonable grounds to suspect that such information is untrue, inaccurate, not current or incomplete, we may suspend or terminate your account and refuse any and all current and future use of this website. Account Information and certain other information about you are also subject to our [Privacy Policy](#). We reserve the right to refuse service, terminate accounts, or remove or edit content in our sole discretion.

## **REVIEWS, COMMENTS, COMMUNICATIONS AND OTHER CONTENT**

You may post reviews, comments and other content and submit suggestions, ideas, comments, questions or other information, so long as the content is not illegal, obscene, threatening, defamatory, invasive of privacy, infringing of intellectual property rights or otherwise injurious to third parties or objectionable and does not consist of or contain software viruses, political campaigning, commercial solicitation, chain letters, mass mailings or any form of "spam." We reserve the right (but not the obligation) to remove or edit such content, but we may not regularly review posted content.

If you do post content or submit material, and unless we indicate otherwise, you grant Xenon a nonexclusive, royalty-free, perpetual, irrevocable and fully sublicensable right to use, reproduce, modify, adapt, publish, translate, create derivative works from, distribute and display such

content throughout the world in any media. You grant Xenon and any of our sublicensees the right to use the name that you submit in connection with such content, if they choose. You represent and warrant that you own or otherwise control all of the rights to the content that you post; that the content is accurate; that use of the content you supply does not violate this agreement and will not cause injury to any person or entity; and that you will indemnify Xenon for all claims resulting from content you supply. If you use a public forum, you are solely responsible for your own communications and the consequences of posting those communications. We take no responsibility and assume no liability for any content posted by you or any third party.

## **WARRANTIES**

Neither Xenon nor its employees, agents, Suppliers, third party information providers, merchants, licensors or the like warrant that the Site, Products, or their operation will be accurate, reliable, uninterrupted or error-free.

Without limiting the foregoing, everything on the Site or in Xenon Products is provided to you “as is” and “as available” without warranty of any kind, either expressed or implied, covering the products available on the Site and the accuracy of the information contained within your account or within the Site. Xenon makes no warranties about the accuracy, reliability, completeness or timeliness of the Site or Product’s content, software text, graphics, and links, or about results to be obtained from using the Site or Xenon’s Products and Services.

If your use of Xenon products or services results in the need for servicing or replacing property, material, equipment or data, Xenon is not responsible for those costs. No agent or representative has the authority to create any warranty regarding the Site or Products on behalf of Xenon. Xenon reserves the right to change or discontinue at any time any aspect or feature of the Site or Products. Xenon does not assume any liability for the contents of any material provided on the Site or in its Products. Reliance on any information presented on the Site or in Products is at your own risk.

You acknowledge that, in connection with the Site and Products, information may be transmitted over local exchange, interexchange and Internet backbone carrier lines and through routers, switches and other devices owned, maintained and serviced by third party local exchange and long distance carriers, utilities, Internet service providers and others, all of which are beyond the control and jurisdiction of Xenon. Accordingly, Xenon assumes no liability for or relating to the delay, failure, interruption or corruption of any data or other information transmitted in connection with use of the Site or Products.

## **LIMITATION OF LIABILITY**

In no event will Xenon or its affiliates, or any party involved in creating, producing or delivering this service, be liable for any direct, indirect, special or punitive damages and costs (including, without limitation, health problems, incidental and consequential damages, lost profits or

damages resulting from lost data or business interruption) arising out of your access, use, misuse or inability to use the Site or Products, or in connection with any failure of performance, error, omission, interruption, defect, delay in operation or transmission, computer virus or line or system failure. Xenon reserves the right to alter the content of the Site or Products in any way, at any time, for any reason, without prior notification, and will not be liable for possible consequences of such changes. These limitations apply even if Xenon has been advised of the possibility of such damages. Because some states and countries do not allow the exclusion or limitation of liability for consequential or incidental damages, the liability in such jurisdictions shall be limited to the extent permitted by the law.

## **INDEMNIFICATION**

Upon a request by Xenon, you agree to defend, indemnify and hold Xenon, its officers, directors, employees and agents, licensors and suppliers harmless from and against any claims, actions or demands, liabilities and settlements, including, without limitation, reasonable legal and accounting fees, resulting from, or alleged to result from, your use of the Site or Products in a manner that violates or is alleged to violate these Terms and Conditions.

## **SOFTWARE**

You agree to our End User License Agreement (EULA). Please review our [EULA](#) and [Third Party Software Agreement](#), which govern your use of the Xenon Digital Medical Assistant, Xenon Chex Application, other computer software; and, as applicable, associated media, databases, printed materials, web services, and “online” or electronic documentation.

## **LINKS**

Occasionally, we may make available a link to a third party’s website. These links will let you leave this website. The linked websites are not under our control, and we are not responsible for the contents of any linked website or any link contained in a linked website, or any changes or updates to such websites. We are not responsible for webcasting or any other form of transmission received from any linked website. We provide the links to you only as a convenience. We do not endorse any third party linked website or its use or contents.

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## **TERMINATION**

You agree that Xenon may terminate your use of the Site or Products for any reason, with or without notice to you. You also agree that Xenon may modify or discontinue the Site or Products, with or without notice to you and that we will not be liable to you or any third party as a result of such modification or discontinuation.

## **GENERAL PROVISIONS**

You expressly agree that exclusive jurisdiction for any dispute with Xenon, or in any way relating to your use of the Site or Products ("Legal Action"), shall be the courts of Utah, State of Utah. You further agree and expressly consent to the exercise of personal jurisdiction in the courts of the State of Utah in connection with any such dispute. Any Legal Action that is subject to the jurisdiction of federal courts shall be instituted in a federal court in the District of Utah. These Terms and Conditions are governed by the internal substantive laws of the State of Utah, without regard to conflict of law principles. If any provision of these Terms and Conditions are found to be invalid by any court having competent jurisdiction, the invalidity of such provision shall not affect the validity of the remaining provisions of these Terms and Conditions, which shall remain in full force and effect. No waiver of these Terms and Conditions shall be deemed a further or continuing waiver of such term or condition or any other term or

condition. Any cause of action you may have with respect to Xenon must be commenced within one year after the claim or cause of action arises or such claim or cause of action is barred.

#### **NOTIFICATION OF CHANGES**

Xenon reserves the right to amend this Agreement at any time. You are bound by any such revisions and should therefore periodically visit this page to review the then-current Terms and Conditions to which you are bound. Your use of the Site or Products after the posting of modifications to the Terms and Conditions will constitute your acceptance of this agreement, as modified. If at any time you do not wish to accept this agreement, you are not thereafter authorized to use the Site or Products.

#### **SURVIVAL**

The provisions "Disclaimer of Warranties," "Limitation of Liability," "Indemnification," "Trademarks," and "General Provisions" will survive termination of this agreement.

#### **QUESTIONS**

If you have any questions about these Terms and Conditions, please contact Xenon at [support@xenonchex.com](mailto:support@xenonchex.com).