

**Phiniti Ambient Scribe**  
**Terms of Service**

Effective Date: March 1, 2025

Phiniti is a technology and workflow company that provides SaaS solutions to end users and AI solutions and workflows for healthcare.

When you create an account with Phiniti by completing the sign-up process on our website or by ordering one of our products, you agree to these Terms of Service. You also confirm that you are at least 18 years of age. If you use our services for business purposes, that business will be bound by these Terms of Service.

If you have any questions regarding these Terms of Service, please email [info@phiniti.ai](mailto:info@phiniti.ai).

### **1. Agreement of the Terms**

By accessing or using Phiniti, or by clicking to accept or agree to these Terms of Service (“Agreement”) when this option is made available, you agree to be bound by the terms of this Agreement. If you don’t agree to any of the Terms in the Agreement, you can’t use any of our products or services. We may change these Terms from time to time. By using Phiniti on or after a change in the Terms of Service, you agree to the new Terms.

In this Agreement, “we”, “us”, “our”, and “Phiniti” refer to Phiniti, LLC.

### **2. Description of Services**

Phiniti’s “Services” include (a) our website, (b) our Ambient Scribe applications and related technologies, including but not limited to the service known as “Ambient Scribe” and “Phiniti” (c) our developer APIs, (d) all Software (as defined below); and (e) any data, reports, text, images, sounds, video, and content made available by us through any of the foregoing. Any new features added to or augmenting the Services are also subject to this Agreement.

### **3. General Conditions**

Subject to the terms and conditions of this Agreement, you may purchase, access and use the Services only for lawful purposes. All rights, title and interest in and to the Services and their components will remain with and belong exclusively to Phiniti. You shall not (a) use the Services in any unlawful manner (including without limitation in violation of any data, privacy or export control laws), (b) in any manner that interferes with or disrupts the integrity or performance of the Services or their components, or (c) modify, adapt or hack the Services to, or otherwise attempt to gain unauthorized access to, the Services or their related systems or networks. You shall comply with any

codes of conduct, policies or other notices Phiniti provides you or publishes in connection with the Services, and you shall promptly notify Phiniti if you learn of a security breach related to the Services.

We are entitled to have third parties perform a part of our Services or proceedings. We do not guarantee that our Services are always available or without disturbance. We will not have any obligation to compensate you for unavailability or non-performance of our Services. Phiniti shall not be liable for any short-term or long-term interruption of data transmission sent through our platform.

We may decide at our sole discretion if we are able to provide you with our Services. We may change the eligibility criteria for the use of our Services at any time, in our sole discretion. If we decide we do not want to provide you with our Services, we will refund any unused prepaid credits or balance.

Any software that may be made available by Phiniti in connection with the Services, including without limitation software contained on devices (collectively, "Software"), contains proprietary and confidential information that is protected by applicable intellectual property and other laws. Subject to the terms and conditions of this Agreement, Phiniti hereby grants you a personal, non-transferable, non-sublicensable and non-exclusive right and license to use the device and object code of any Software solely in connection with the Services, provided that you shall not (and shall not allow any third party to) copy, modify, create a derivative work of, reverse engineer, reverse assemble or otherwise attempt to discover any source code or sell, assign, sublicense or otherwise transfer any right in any Software; or remove any proprietary notices or labels. You agree not to access the Services by any means other than through the interface that is provided by Phiniti for use in accessing the Services. Any rights not expressly granted herein are reserved and no license or right to use any trademark of Phiniti or any third party is granted to you in connection with the Services. At any time, we may cancel or revoke your access to any part of Phiniti, including but not limited your access to and use of a domain you have chosen.

As a condition of using the Services, you agree to abide by all applicable laws, regulations, and rules relevant to your operations, including but not limited to the Health Insurance Portability and Accountability Act (HIPAA). You declare and guarantee that you possess the necessary legal rights to all information governed by HIPAA that you utilize or furnish in conjunction with your use of the Services.

#### **4. Customer Data and Equipment**

You are solely responsible for all data, information, feedback, suggestions, text, content and other materials that you stream, deliver, provide or otherwise transmit or store (hereafter "transmit(ing)") in connection with or relating to the Services ("Your Content"). You are responsible for maintaining the confidentiality of your login, password and account and for all activities that occur under your login or account, including as carried out by all users on your account. Phiniti may access your account in order to respond to your requests for technical support.

If your entity or you personally are classified as either a Covered Entity or a Business Associate under HIPAA, and you plan to use the Services in ways that involve Phiniti in the creation, receipt, maintenance, or transmission of Protected Health Information (PHI) on your behalf, it is mandatory for you to consent to our Business Associate Agreement. This agreement is provided in Appendix I. You must review and agree to this Business Associate Agreement before you can use the Services. Failure to execute this agreement will preclude your access to and use of the Services.

By transmitting Your Content on or through the Services, you grant Phiniti the right to display and distribute Your Content in connection with the operation of the Services on your behalf. Phiniti has the right, but not the obligation, to monitor Your use of the Service or Content, or Your Content, to confirm compliance with the terms of this Agreement, applicable law and the rights of third parties.

You further agree that Phiniti may block, remove or disable any Content at any time if Phiniti reasonably suspects such Content violates the terms of this Agreement, applicable law or the rights of any third party, or might cause harm to Phiniti, the Service or any of its users (including, but not limited to, upon receipt of claims or allegations from third parties or authorities relating to such Content).

Notwithstanding anything to the contrary, Phiniti shall have the right to collect, analyze, and use anonymized or aggregated data and other information relating to the Services and related systems and technologies (including, without limitation, information concerning Your Content and data derived therefrom), and Phiniti will be free (during and after the term of this Agreement) to (i) use such information and data to improve and enhance the Services and for other development, diagnostic and corrective purposes in connection with the Services and other Phiniti offerings, and (ii) disclose such data solely in aggregate or other de-identified form in connection with its business. Anonymized and aggregated data are: (i) not identifiable to any person, as it pertains to Patient Information, and complies with 45 CFR. § 164.514(b), and (ii) not shared, distributed, or conveyed in a way that identifies the individual.

You understand that the operation of the Service, including Your Content, may involve (a) transmissions over various encrypted networks; (b) changes to conform and adapt to technical requirements of connecting networks or devices and (c) transmission to Phiniti's third party vendors and hosting partners, with whom Phiniti has signed Business Associate Agreements, to provide the necessary hardware, software, networking, storage, and related technology required to operate and maintain the Service. Accordingly, you acknowledge that you bear sole responsibility for adequate security, protection and backup of Your Content. Phiniti will have no liability to you for any unauthorized access or use of any of Your Content, or any corruption, deletion, destruction or loss of any of Your Content.

You shall be responsible for obtaining and maintaining any equipment and ancillary services needed to connect to, access or otherwise use the Services, including, without limitation, modems, hardware, server, software, operating system, networking, web servers, long distance and local telephone service.

## **5. Payment**

To the extent the Services or any portion thereof is made available for any fee, you may be required to select a payment plan and provide Company with information regarding your credit card or other payment instrument. You shall be responsible for all taxes associated with Services other than U.S. taxes based on Phiniti's net income. If you provide Phiniti with information regarding your credit card or other payment instrument, you represent and warrant to Phiniti that such information is true and that you are authorized to use that payment instrument. You will promptly update your account information with any changes (for example, a change in your billing address or credit card expiration date) that may occur. You hereby authorize Phiniti to bill your payment instrument upon purchase of a plan, device or license in accordance with the terms agreed upon by you and Phiniti in the applicable Order Form or on the Site, as applicable, and you further agree to pay any charge so incurred. Phiniti may also bill you through an invoice, at its election. All invoices must be paid within thirty (30) days after the mailing date of the invoice. Unpaid amounts are subject to a finance charge of 1.5% per month on any outstanding balance, or the maximum permitted by law, whichever is lower, plus all expenses of collection and may result in immediate termination of Services.

## **6. Representations, Warranties, and Disclaimer**

You represent and warrant to Phiniti that (i) you have full power and authority to enter into this Agreement; (ii) you own all Your Content or have obtained all permissions, releases, rights or licenses required to engage in your transmitting and other activities (and allow Phiniti to perform its obligations) in connection with the Service without obtaining any further releases or consents; (iii) Your Content and other activities in connection with the Service, and Phiniti's exercise of all rights and license granted by you herein, do not and will not violate, infringe, or misappropriate any third party's copyright, trademark, right of privacy or publicity, or other personal or proprietary right, nor does Your Content contain any matter that is defamatory, obscene, unlawful, threatening, abusive, tortious, offensive or harassing; (iv) you are eighteen (18) years of age or older; and (v) you will use the Service only in compliance with all applicable laws and regulations.

Phiniti warrants that the devices, when provided to you by us, will conform in all material respects to the applicable specifications provided by us to you. Such warranty does not apply to units that have been damaged, mishandled, mistreated or used or maintained or stored other than in conformity with such specifications and Phiniti's instructions. EXCEPT FOR BODILY INJURY, YOUR SOLE AND EXCLUSIVE REMEDY FOR ANY BREACH OF THE FOREGOING WARRANTY SHALL BE THE REPAIR OR REPLACEMENT OF OR (AT PHINITI'S OPTION OR IF REPAIR OR REPLACEMENT IS IMPRACTICAL) REFUND FOR RETURNED NON-CONFORMING UNITS FOR WHICH FULL DOCUMENTATION AND PROOF OF NON-CONFORMITY IS PROVIDED TO PHINITI WITHIN ONE YEAR IN THE CASE OF HARDWARE COMPONENT, OR THIRTY DAYS IN THE CASE OF SOFTWARE (WHETHER OR NOT EMBEDDED), AFTER THE ORIGINAL NON-CONFORMING UNITS (BUT NOT REPLACEMENTS) ARE SHIPPED BY PHINITI.

Phiniti warrants that it shall use reasonable efforts consistent with prevailing industry standards to maintain the Services in a manner which minimizes errors and interruptions in the Services. The Services may be temporarily unavailable for scheduled maintenance or for unscheduled emergency maintenance, either by Phiniti or by third-party providers, or because of other causes beyond Phiniti's reasonable control, but Phiniti shall use reasonable efforts to provide advance notice in writing or by e-mail of any scheduled service disruption. HOWEVER, PHINITI DOES NOT WARRANT THAT THE SERVICE WILL BE UNINTERRUPTED OR ERROR FREE; NOR DOES IT MAKE ANY WARRANTY AS TO THE RESULTS THAT MAY BE OBTAINED FROM USE OF THE DEVICES OR THE SERVICE.

DISCLAIMER OF WARRANTIES. EXCEPT AS EXPRESSLY PROVIDED HEREIN, THE SERVICE, INCLUDING THE DEVICES, SITE AND CONTENT, AND ANY SERVER AND NETWORK COMPONENTS ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS WITHOUT ANY WARRANTIES OF ANY KIND, AND PHINITI EXPRESSLY DISCLAIMS ANY AND ALL WARRANTIES, WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY, TITLE, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT. YOU ACKNOWLEDGE THAT PHINITI DOES NOT WARRANT THAT THE SERVICE WILL BE UNINTERRUPTED, TIMELY, SECURE, ERROR-FREE OR VIRUS-FREE AND NO INFORMATION, ADVICE OR SERVICES OBTAINED BY YOU FROM PHINITI OR THROUGH THE SERVICE SHALL CREATE ANY WARRANTY NOT EXPRESSLY STATED IN THIS AGREEMENT. PHINITI DOES NOT OFFER MEDICAL, LEGAL, OR ANY OTHER PROFESSIONAL ADVICE OR MAKE DIAGNOSES. THE TOOLS AND CONTENT PROVIDED THROUGH OUR SERVICES ARE NOT SUBSTITUTES FOR PROFESSIONAL MEDICAL ADVICE OR TREATMENT. WE RECOMMEND THAT HEALTHCARE PROFESSIONALS EXERCISE THEIR OWN CLINICAL JUDGMENT AND SEEK THE ADVICE OF QUALIFIED PROFESSIONALS WHEN NECESSARY. YOU ARE ENCOURAGED NOT TO RELY SOLELY ON THE INFORMATION PROVIDED BY OUR SERVICES FOR MAKING MEDICAL DECISIONS.

## **7. Indemnification and Limitation of Liability**

Customer will defend Phiniti, its officers, directors, employees, and the successors and assigns of the foregoing from and against any and all claims by an unaffiliated third party directly or indirectly arising from or related to (i) facts that, if true would constitute a breach of this Agreement by Customer, (ii) Customer's or its End Users' access to, use, misuse or illegal use of the Phiniti Service, Customer Data or End User Data, or (iii) the violation or infringement by the Customer Service or the Customer Products of such third party's U.S. Intellectual Property Rights. Phiniti reserves the right to assume the exclusive defense and control of any matter which is subject to indemnification under this section, in which case Customer agrees to cooperate with any reasonable requests to assist Phiniti's defense of such matter.

IN NO EVENT WILL PHINITI BE LIABLE WITH RESPECT TO ANY SUBJECT MATTER OF THIS AGREEMENT UNDER ANY CONTRACT, NEGLIGENCE, STRICT LIABILITY OTHER LEGAL OR EQUITABLE THEORY FOR: (I) ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL OR EXEMPLARY DAMAGES (EVEN IF THAT PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES), SUCH AS, BUT NOT LIMITED TO, LOSS OF REVENUE, PROFITS OR BUSINESS, COSTS OF DELAY, COSTS OF LOST OR DAMAGED DATA OR DOCUMENTATION, OR LIABILITIES TO THIRD PARTIES ARISING FROM ANY SOURCE; COST OF

PROCUREMENT OF SUBSTITUTE GOODS, TECHNOLOGY OR SERVICES, OR (II) ANY AMOUNTS IN EXCESS, IN THE AGGREGATE, OF THE FEES PAID OR PAYABLE TO PHINITI HEREUNDER DURING THE SIX MONTH PERIOD IMMEDIATELY PRIOR TO THE DATE THE CAUSE OF ACTION AROSE.

Some states do not allow the exclusion of implied warranties or limitation of liability for incidental or consequential damages, which means that some of the above limitations may not apply to you. IN THESE STATES, PHINITI'S LIABILITY WILL BE LIMITED TO THE GREATEST EXTENT PERMITTED BY LAW.

## **8. Term, Termination, and Effects**

This Agreement shall commence when you sign up for an account or order one of our products, and unless otherwise indicated on an Order Form shall continue on a month-to-month basis until terminated as set forth herein.

Phiniti may terminate this Agreement, without cause or notice, at any time. If we terminate this Agreement, we will refund any unused prepaid credits or balance.

Upon expiration or termination of this Agreement, all licenses granted to the Services shall expire. Phiniti shall discontinue the provision of the Services, and Customer shall immediately pay any outstanding invoices for services rendered through the date of termination.

## **9. Governing Law**

This Agreement shall be governed by the laws of the State of California without regard to the principles of conflicts of law. Unless otherwise elected by Phiniti in a particular instance, you hereby expressly agree to submit to the exclusive personal jurisdiction of the federal and state courts of the State of California for the purpose of resolving any dispute relating to your access to or use of the Service.

## **10. Privacy**

Please visit <https://ambient-scribe.com/privacy> to understand how Phiniti collects and uses personal information.

## **11. Publicity**

Phiniti may use your name and/or company name as a reference for marketing or promotional purposes on Phiniti's website and in other communication with existing or potential Phiniti customers. Any such use will be in accordance with reasonable trademark guidelines you may provide and will comply with all applicable laws and professional standards.

## **Appendix I: Business Associate Agreement**

This Business Associate Agreement ("BAA") is by and between Phiniti, Co. ("Business Associate") and Customer ("Covered Entity") and is entered into upon agreement with the Terms of Service.

### **1. Term**

This BAA shall remain in effect for the duration of this Agreement and shall apply to all of the Services and/or Supplies delivered by the Business Associate pursuant to this Agreement.

### **2. HIPAA Assurances**

In the event that Business Associate creates, receives, maintains, or otherwise is exposed to personally identifiable or aggregate patient or other medical information defined as Protected Health Information ("PHI") in the Health Insurance Portability and Accountability Act of 1996 or its relevant regulations ("HIPAA") and otherwise meets the definition of Business Associate as defined in the HIPAA Privacy Standards (45 CFR Parts 160 and 164), Business Associate shall:

(a) Recognize that HITECH (the Health Information Technology for Economic and Clinical Health Act of 2009) and the regulations thereunder (including 45 C.F.R. Sections 164.308, 164.310, 164.312, and 164.316), apply to a business associate of a covered entity in the same manner that such sections apply to the covered entity;

(b) Not use or further disclose the PHI, except as permitted by law;

(c) Not use or further disclose the PHI in a manner that had the Covered Entity done so, would violate the requirements of HIPAA;

(d) Use appropriate safeguards (including implementing administrative, physical, and technical safeguards for electronic PHI) to protect the confidentiality, integrity, and availability of and to prevent the use or disclosure of the PHI other than as provided for by this BAA;

(e) Comply with each applicable requirements of 45 C.F.R. Part 162 if the Business Associate conducts Standard Transactions for or on behalf of the Covered Entity;

(f) Report promptly to the Covered Entity any security incident or other use or disclosure of PHI not provided for by this BAA of which Business Associate becomes aware;

(g) Ensure that any subcontractors or agents who receive or are exposed to PHI (whether in electronic or other format) are explained the Business Associate obligations under this paragraph and agree to the same restrictions and conditions;

(h) Make available PHI in accordance with the individual's rights as required under the HIPAA regulations;

(i) Account for PHI disclosures for up to the past six (6) years as requested by Covered Entity, which shall include: (i) dates of disclosure, (ii) names of the entities or persons who received the PHI, (iii) a brief description of the PHI disclosed, and (iv) a brief statement of the purpose and basis of such disclosure;

(j) Make its internal practices, books, and records that relate to the use and disclosure of PHI available to the U.S. Secretary of Health and Human Services for purposes of determining Customer's compliance with HIPAA; and

(k) Incorporate any amendments or corrections to PHI when notified by Customer or enter into a Business Associate Agreement or other necessary Agreements to comply with HIPAA.

### **3. Termination Upon Breach of Provisions**

Notwithstanding any other provision of this BAA and the Agreement, Covered Entity may immediately terminate this BAA if it determines that Business Associate breaches any term in this BAA. Alternatively, Covered Entity may give written notice to Business Associate in the event of a breach and give Business Associate five (5) business days to cure such breach. Covered Entity shall also have the option to immediately stop all further disclosures of PHI to Business Associate if Covered Entity reasonably determines that Business Associate has breached its obligations under this BAA. In the event that termination of this BAA and the BAA is not feasible, Business Associate hereby acknowledges that the Covered Entity shall be required to report the breach to the Secretary of the U.S. Department of Health and Human Services, notwithstanding any other provision of this BAA or BAA to the contrary.

### **4. Return or Destruction of Protected Health Information upon Termination**

Upon the termination of this BAA, unless otherwise directed by Covered Entity, Business Associate shall either return or destroy all PHI received from the Covered Entity or created or received by Business Associate on behalf of the Covered Entity in which Business Associate maintains in any form. Business Associate shall not retain any copies of such PHI. Notwithstanding the foregoing, in the event that Business Associate determines that returning or destroying the Protected Health Information is infeasible upon termination of this BAA, Business Associate shall provide to Covered Entity notification of the condition that makes return or destruction infeasible. To the extent that it is not feasible for Business Associate to return or destroy such PHI, the terms and provisions of this BAA shall survive such termination or expiration and such PHI shall be used or disclosed solely as permitted by law for so long as Business Associate maintains such Protected Health Information.

### **5. No Third Party Beneficiaries**



The parties agree that the terms of this BAA shall apply only to themselves and are not for the benefit of any third party beneficiaries.

## **6. De-Identified Data**

Notwithstanding the provisions of this BAA, Business Associate and its subcontractors may disclose non-personally identifiable information provided that the disclosed information does not include a key or other mechanism that would enable the information to be identified.

## **7. Amendment**

Business Associate and Covered Entity agree to amend this BAA to the extent necessary to allow either party to comply with the Privacy Standards, the Standards for Electronic Transactions, the Security Standards, or other relevant state or federal laws or regulations created or amended to protect the privacy of patient information. All such amendments shall be made in writing and signed by both parties.

## **8. Interpretation**

Any ambiguity in this BAA shall be resolved in favor of a meaning that permits Covered Entity to comply with the then most current version of HIPAA and the HIPAA privacy regulations.

## **9. Definitions**

Capitalized terms used in this BAA shall have the meanings assigned to them as outlined in HIPAA and its related regulations.

## **10. Survival**

The obligations imposed by this BAA shall survive any expiration or termination of this BAA.