

DPNCHECK® CLOUD END-USER LICENSE AGREEMENT

March 14, 2023

PLEASE READ THIS AGREEMENT CAREFULLY. BY ACCESSING OR USING THE DPNCHECK CLOUD, YOU AGREE TO BE BOUND BY THE TERMS AND CONDITIONS OF THIS AGREEMENT. IF YOU DO NOT AGREE TO THE TERMS OF THIS AGREEMENT, DO NOT USE THE DPNCHECK CLOUD.

1. DEFINITIONS

For the purposes of this Agreement, the following definitions shall apply:

1.1. "NeuroMetrix" means NeuroMetrix, Inc. with its principal place of business as 4b Gill St., Woburn, MA 01801.

1.2. "DPNCheck Cloud" means the online cloud database platform and related services, including online dashboards, provided by NeuroMetrix to you, and any updates or modifications thereto.

1.3. "DPNCheck" means the NeuroMetrix DPNCheck medical device and the Reporter software application with which the DPNCheck Cloud is associated.

1.4. "End User" means any individual who accesses or uses the DPNCheck Cloud.

2. PROTECTED HEALTH INFORMATION (PHI)

The data uploaded to the DPNCheck Cloud is de-identified per the standard set forth in the Privacy Rule, 45 CFR §164.514(b), of the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"). As such, NeuroMetrix and the DPNCheck Cloud are not subject to and make no further representations relative to HIPAA.

3. LICENSE GRANT

Subject to the terms and conditions of this Agreement, NeuroMetrix grants to the End User a limited, non-exclusive, non-transferable, revocable license to access and use the DPNCheck Cloud solely for the purpose of storing, viewing, analyzing and performing any other available services with data acquired using DPNCheck.

4. RESTRICTIONS

The End User may not copy, modify, distribute, sell, transfer, sublicense, rent or lease the DPNCheck Cloud, or use it in any manner not expressly authorized by this Agreement. The End User may not reverse engineer, decompile or disassemble the DPNCheck Cloud, or attempt to do so.

5. OWNERSHIP AND INTELLECTUAL PROPERTY

NeuroMetrix retains all right, title and interest in and to the DPNCheck Cloud, including all intellectual property rights. This Agreement does not grant to the End User any ownership or intellectual property rights in the DPNCheck Cloud.

The End User retains all right, title and interest in and to all data that has been uploaded to the DPNCheck Cloud by the End User.

6. TERM AND TERMINATION

This Agreement shall remain in effect until terminated by either party. The End User may terminate this Agreement at any time by ceasing to use DPNCheck Cloud and providing notice to NeuroMetrix. NeuroMetrix may terminate this Agreement at any time, with or without cause, by providing notice to the End User.

Upon termination of this Agreement, the End User's right to access and use DPNCheck Cloud shall immediately terminate. However, NeuroMetrix shall provide a 30-day period during which the End User may download their data. Following termination of this agreement, NeuroMetrix shall permanently delete End User data if requested to do so in writing.

7. DISCLAIMERS AND LIMITATION OF LIABILITY

THE DPNCHECK CLOUD IS PROVIDED "AS IS" WITHOUT WARRANTY OF ANY KIND. TO THE MAXIMUM EXTENT PERMITTED BY LAW, NEUROMETRIX DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, INCLUDING WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE OR NON-INFRINGEMENT. IN NO EVENT SHALL NEUROMETRIX BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES, OR FOR ANY DAMAGES WHATSOEVER ARISING OUT OF OR IN CONNECTION WITH THE USE OR INABILITY TO USE THE DPNCHECK CLOUD, EVEN IF NEUROMETRIX HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

8. GOVERNING LAW

This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Massachusetts, without giving effect to any principles of conflicts of law.

9. ENTIRE AGREEMENT

This Agreement constitutes the entire agreement between the End User and NeuroMetrix with respect to the DPNCheck Cloud, and supersedes all prior or contemporaneous agreements, understandings or communications, whether oral or written, regarding the DPNCheck Cloud.