

**TERMS OF USE  
SPEECH SOUNDS VISUALIZED MOBILE APP**

**IMPORTANT: READ CAREFULLY**

This Terms of Use Agreement (the “**Agreement**”) is a legal agreement between “**You**” and Whitman County Public Hospital District Number 1-A d/b/a Pullman Regional Hospital (“**PRH**,” “**We**” or “**Us**”) for the App (as such term is defined below).

The App is provided by PRH for the purpose of providing information and training relating to speech and pronunciation of English-language word. Through the App, You may view x-ray and visible-light imagery of different speech sounds, learn about proper pronunciation, and practice producing speech sounds. The App may also provide information and links related to other PRH products and services, and third party products and services. The functions that we provide through the App may be referred to as the “**Services**.”

**By downloading, installing, creating a user account, or otherwise using the App, You represent to Us that you are at least 18 years old and You agree to be bound by the terms of this Agreement along with the PRH privacy policy.**

These Terms of Use govern your use of the App only – PRH’s Website Terms of Use continue to govern your use of the PRH websites. Any other contractual agreements between You and PRH remain in effect and unaltered by these Terms of Use, unless specifically noted.

**IF YOU DO NOT ACCEPT ALL OF THE TERMS AND CONDITIONS OF THIS AGREEMENT, PRH IS UNWILLING TO LICENSE THE APP TO YOU, NO LICENSE IS GRANTED AND YOU ARE NOT AUTHORIZED INSTALL OR USE THE APP.**

**1. Software Delivery and Acceptance**

Subject to Your agreement to be bound by all terms and conditions of this Agreement, PRH authorizes You to use and access PRH’s proprietary mobile software application, which includes compiled software code, images, music, media, templates, data, a user interface, any documentation accompanying the program, and any updates or supplements of such software and documentation (collectively, the “**App**”). The App is deemed accepted by You when the App is initially downloaded by You.

**2. License Terms and Conditions**

Subject to all terms and conditions of this Agreement, PRH hereby grants You a nonexclusive, personal, non-transferable, non-assignable, non-commercial, limited license to use and access the App in accordance with this Agreement and any and all agreements and documents executed by You or delivered by PRH. The App is licensed to you, not sold, and PRH reserves the right to revoke such license at any time and disable your ability to use the App for any reason or for no reason.

**3. Proprietary Rights**

The App is protected by copyright laws, international copyright treaties, and other intellectual property laws and treaties. All rights in the App not expressly licensed under this Agreement are reserved to PRH. You shall not reproduce, retransmit, disseminate, sell, publish, broadcast, circulate, rent, lease, sublicense, assign, or otherwise transfer any portion of the App except as expressly authorized in this Agreement.

No right to use any trademark or trade name of PRH is granted to You hereunder other than the right to display the PRH marks that are placed on the App and any PRH messages when they are rendered in the App, in which case such marks may not be altered or removed by You without written approval by PRH.

#### **4. User Content**

PRH may allow you to upload or post audio files or other content through the App (“**User Content**”). You agree that You will not create, share, display, distribute, and/or otherwise use any User Content that is unlawful, defamatory, libelous, slanderous, obscene, violates another’s right to privacy or publicity, or infringes any patent, trademark, copyright, trade secret, or other proprietary right. You expressly agree to indemnify PRH for any claims or damages arising out of Your use, creation or posting of such prohibited User Content.

PRH does not have the obligation to, and does not, pre-screen any User Content. However, PRH reserves the right to remove or edit any User Content at any time and without notice to You.

All feedback and other User Content you provide to PRH, whether via the App or otherwise, shall be deemed to be non-confidential. PRH shall be free to use such information on an unrestricted basis.

If you are a copyright owner and believe that any User Content infringes upon your copyrights, you may submit a notification to PRH’s Designated Agent at: Becky Highfill, Director Center for Learning & Innovation, 835 SE Bishop Blvd., Pullman, WA 99163, cli@pullmanregional.org. Pursuant to the Digital Millennium Copyright Act 17 U.S.C. Sec. 512(c)(2), such notification must include:

A description of the copyrighted work that you claim has been infringed; a description of where the alleged infringing material is located; a statement by you that you have a good faith belief that the disputed use is not authorized by the copyright owner, its agent, or the law; an electronic or physical signature of the person authorized to act on behalf of the owner of the copyright interest; Your contact information (email and telephone number); and a statement by you, made under penalty of perjury, that the above information in your notice is accurate and that you are the copyright owner or are authorized to act on the copyright owner's behalf.

#### **5. Third Party Content**

The App may display, include, make available or link to content, data, information, applications, websites or materials from third parties (“**Third-Party Content**”). PRH is not responsible for the content, accuracy, completeness, timeliness, validity, copyright compliance, legality, decency, quality, efficiency, advertising, terms of use, privacy policy, practices, software code or any other aspect of the Third-Party Content. You are encouraged to read the terms of use and privacy policy of any third-party websites to which you connect when using the App. PRH disclaims all liability arising from or relating to the Third-Party Content.

Third-Party Content may contain proprietary content, information and material that is protected by applicable intellectual property and other laws, including but not limited to copyright and trademark laws. You may not use such proprietary content, information or materials in any way whatsoever except to use the App and Services for their intended purposes.

#### **6. Internet Access**

Use of the App and the Services requires an internet connection and may result in charges from your cellular service provider. PRH is not responsible for any such charges. PRH is also not liable for any disruption, failure or malfunction of the Internet or other service providers or for any other situation or event that is out of PRH’s direct control. **PRH IS NOT RESPONSIBLE FOR ANY ACTS OR OMISSIONS OF**

## **YOUR CELLULAR COMMUNICATION OR INTERNET SERVICE PROVIDERS, OR UNAVAILABILITY OR ERRORS ASSOCIATED WITH THEIR SYSTEMS OR SERVICES.**

### **7. Restrictions on Use**

Unless and to the extent specifically provided otherwise in writing by PRH, you may not:

- (a) separate any individual component of the App for use;
- (b) incorporate any portion of the App into other software or compile any portion of it in combination with other software;
- (c) use the App, or any portion of App, with any other service or over a network;
- (d) sell, rent, lease, lend, loan, distribute, assign or sublicense the App or otherwise transfer any rights to it in whole or in part;
- (e) modify, reverse engineer, decompile, remove any proprietary notices or disassemble the App in whole or in part, or create any derivative works from or of the App, or encourage, assist or authorize any other person to do any of these things; or
- (f) make copies of or distribute the App or electronically transfer it or any portion of it from one computer to another or over a network.

We may discontinue some or all of the functionality of the App or the Services at any time. We may also terminate your right to use the App at any time, and in such event we may modify it to make it inoperable. You agree to abide by all laws and regulations in effect regarding your use of the App, including without limitation, all driving laws and laws relating to copyright-protected content. You may not authorize or assist any third party to do any of the things prohibited in this paragraph.

### **8. Updates**

PRH may from time to time, in its sole discretion, make updates, modifications, supplements or new versions of the App or portions thereof available to You under this Agreement for the purpose of, among other things, distributing bug fixes, patches and feature improvements. We highly recommend that you enable automatic updating on your mobile device or that you promptly install all updates as they appear. PRH disclaims any and all liability relating to Your failure to install any updates to the App. Notwithstanding the foregoing, PRH does not have any obligation to provide any bug fixes, modifications, updates, or technical or end user support for the App.

### **9. Collection and Use of Data**

You acknowledge that the App automatically collects information, data and statistics relating to your use of the App, and compiles such information, data and statistics. PRH reserves the right to use such information, data and statistics in the course of PRH's business, and you hereby agree to such use. Unless specifically agreed in writing by PRH, PRH is not responsible for, and hereby disclaims all warranties relating to, the storage of any data for use with the App.

PRH has no duty to resist any effort by law enforcement officials to obtain information relating to You and your use of the App and Services. PRH reserves the right to disclose any information necessary to satisfy any such law enforcement requests, warrants, subpoenas or court orders.

### **10. Login Credentials.**

You shall not share Your user account information with others or allow third parties to use Your login credentials to the App at any time or for any reason unless otherwise allowed in writing by PRH. You warrant, and PRH may assume and rely on the assumption, that any and all activity and use of the App

under Your user account is done by You. You are solely responsible for maintaining the security of, for example, your username, password, and all other user account information, and You agree that PRH will not be liable for any loss or damages resulting from use of your account by others.

#### **11. Disclaimers; Limitations of Liability**

PRH DOES NOT PROMISE THAT THE APP OR THE SERVICES OR ANY FUNCTIONALITY THEREOF WILL BE ERROR-FREE OR UNINTERRUPTED OR THAT YOUR USE OF THE APP OR THE SERVICES WILL PROVIDE SPECIFIC RESULTS. THE APP AND THE SERVICES ARE PROVIDED BY PRH “AS-IS” AND “AS-AVAILABLE” WITHOUT ANY OTHER WARRANTY OR REPRESENTATION OF ANY KIND. PRH CANNOT ENSURE THAT THE APP OR ANY FILES OR OTHER DATA YOU DOWNLOAD IN RELATION TO THE APP WILL BE FREE OF VIRUSES OR CONTAMINATION OR DESTRUCTIVE FEATURES. YOUR USE OF THE APP AND SERVICES, AND THE RESULTS AND PERFORMANCE ACHIEVED USING THE APP AND SERVICES, IS AT YOUR OWN RISK. PRH DISCLAIMS ALL OTHER WARRANTIES, EXPRESS, IMPLIED OR STATUTORY, INCLUDING BUT NOT LIMITED TO IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, AND ANY WARRANTIES ARISING FROM COURSE OF DEALING, USAGE OR TRADE PRACTICE WITH RESPECT TO THE APP AND THE SERVICES. THE ENTIRE RISK AS TO THE QUALITY, OR ARISING OUT OF THE USE OR PERFORMANCE OF THE APP OR THE SERVICES REMAINS WITH YOU.

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL PRH BE LIABLE FOR ANY DIRECT, INDIRECT, CONSEQUENTIAL, PUNITIVE, INCIDENTAL OR SPECIAL DAMAGES WHATSOEVER (INCLUDING WITHOUT LIMITATION DAMAGES FOR LOSS OF PROFITS, BUSINESS INTERRUPTION, LOSS OF BUSINESS INFORMATION, AND THE LIKE) ARISING OUT OF THE USE OF OR INABILITY TO USE THE APP OR SERVICES, ANY PROVISION OF OR FAILURE TO PROVIDE SUPPORT, OR OTHERWISE UNDER OR IN CONNECTION WITH THIS AGREEMENT, EVEN IN THE EVENT OF THE FAULT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, BREACH OF CONTRACT OR BREACH OF WARRANTY OF PRH, AND EVEN IF PRH HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

IF, NOTWITHSTANDING THE OTHER PROVISIONS OF THIS AGREEMENT, PRH IS FOUND TO BE LIABLE TO YOU FOR ANY DAMAGE OR LOSS WHICH ARISES OUT OF OR IS IN ANY WAY CONNECTED WITH YOUR USE OF THE APP OR THE SERVICES, PRH’S LIABILITY SHALL IN NO EVENT EXCEED THE GREATER OF (1) THE TOTAL OF ANY SUBSCRIPTION OR SIMILAR FEES WITH RESPECT TO THE APP OR THE SERVICES PAID IN THE SIX MONTHS PRIOR TO THE DATE OF THE INITIAL CLAIM MADE AGAINST PRH, OR (2) US\$200.00. SOME JURISDICTIONS DO NOT ALLOW LIMITATIONS OF LIABILITY, SO THE FOREGOING LIMITATION MAY NOT APPLY TO YOU.

#### **12. Termination**

Without limiting its rights and remedies, if You fail to comply with the terms and conditions of this Agreement, PRH may, in its sole discretion, terminate this Agreement upon any such failure. Upon termination of this Agreement, You must promptly cease all use of the App and discontinue exercising all license rights granted by this Agreement. Sections 3, 4, 9, and 11 through 17 of this Agreement will survive any termination of this Agreement.

#### **13. Dispute Resolution; Choice of Law**

This Agreement shall be construed and controlled by the laws of the State of Washington without reference to its choice of law provisions, and Customer consents to exclusive jurisdiction and venue in the

federal courts sitting in Spokane, Washington, unless no federal jurisdiction exists, in which case Customer consents to exclusive jurisdiction and venue in the applicable Washington State Court located in Spokane, Washington. You waive all defenses of lack of personal jurisdiction and forum *non conveniens*.

#### **14. Export Law Compliance**

You acknowledge that App is of U.S. origin. You agree to comply with all applicable international and national laws that apply to the App, including all applicable U.S. export-control laws and regulations, as well as any end-user, end-use and destination restrictions issued by U.S. and other governments.

#### **15. Other Agreements**

This Agreement constitutes an individual consent by You to be bound by the terms of this Agreement and is the entire agreement between You and PRH with regard to Your use of the App and Services, and any and all other written or oral agreements or understandings previously existing between You and PRH with respect to such use are hereby superseded and cancelled. This Agreement is not intended to supersede or replace any other agreements entered into with PRH by You or Your company, including, without limitation, the PRH website terms of use and Rental Contract. To the extent there are any conflicts or inconsistencies between this Agreement and any other agreement, policy or documentation, the Rental Contract shall control, then this Agreement, then the website terms of use.

#### **16. Void Where Prohibited**

Although the App and the Services is accessible worldwide, not all features, products or services discussed, referenced, provided or offered through or on the App are available to all persons or in all geographic locations, or appropriate or available for use outside the United States. PRH reserves the right to limit, in its sole discretion, the provision and quantity of any feature, product or service to any person or geographic area. Any offer for any feature, product or service made on the App is void where prohibited. If you choose to access the App from outside the United States, you do so on your own initiative and you are solely responsible for complying with applicable local laws.

#### **17. No Doctor-Patient Relationship**

The information, materials, and other content available through the App are not an attempt to practice medicine or provide specific medical advice. Use of the App does not establish a doctor-patient relationship.

#### **18. Miscellaneous**

If any of the provisions of this Agreement are held by a court or other tribunal of competent jurisdiction to be void or unenforceable, such provisions shall be limited or eliminated to the minimum extent necessary and replaced with a valid provision that best embodies the intent of this Agreement, so that this Agreement shall remain in full force and effect. PRH's failure to insist on or enforce strict performance of this Agreement shall not be construed as a waiver by PRH of any provision or any right it has to enforce this Agreement, nor shall any course of conduct between PRH and you or any other party be deemed to modify any provision of this Agreement. This Agreement shall not be interpreted or construed to confer any rights or remedies on any third parties.