

# General terms and conditions of the PurpleCare Web Portal

Version in effect 20th January 2021

## INTRODUCTION

The Web portal application called "PurpleCare" (hereinafter the "Web Portal ") is published by DHYGEE.

DHYGEE can be contacted by e-mail at the following address: [contact@dhygee.com](mailto:contact@dhygee.com).

The purpose of these general terms and conditions of use (hereinafter referred to as the "T&Cs") is to define the terms and conditions under which DHYGEE allows users, natural persons of full age, registered and holding a valid account on the Web Interface (hereinafter referred to as the "Users") to benefit from the services available from the Web Interface as more fully described below.

## 1. OBJECT OF THE WEB INTERFACE APPLICATION

Although the Web Portal is accessible and usable by any person, subject to the conditions described herein, it is recalled that the Web Portal is mainly intended for healthcare professionals managing patients with epilepsy.

The Web Portal allows Users to view and centralise, as part of the normal follow-up process, epileptic patient's data if they are using the PurpleCare mobile app (hereinafter the "Mobile App ").

The User can advise her/his patient to download the Mobil App form the Apple App store or the Android App Store.

The Web Portal may also be used for medical remote monitoring purposes within the meaning of the Web Portal regulations, allowing Users who have received consent to remotely monitor patients that are using Mobile App. The Mobile App device shares with the User (their doctor or healthcare professional) the data relating to their health and daily activity necessary for the remote monitoring act and centralized within the Mobile App.

The Web Portal is mainly intended for Healthcare professional dealing with patient that have epilepsy, it may contain information on medical and health-related topics. However, DHYGEE is not a health professional and, as such, does not practice medicine or provide medical advice. The information contained in the Web Portal is not intended to replace the advice of a doctor or other healthcare professional.

The User acknowledges and accepts that the Web Portal and the Services are solely (i) reserved for strictly private use, excluding any professional purpose and (ii) intended for general informative and educational purposes, with the exception of medical information exchanged in the context of remote monitoring acts, it being specified that this information is the sole responsibility of the author and in no case DHYGEE.

In order to access and use the Web Portal, each User must:

- Have a compatible web browser.

- Have an Internet connection, the costs of using remote communication techniques (Wi-Fi, 2G, 3G, 4G, etc.) being borne by the User;
- Create a user account from the Web Portal (hereinafter the "User Account"); and
- Accept these T&Cs without reservation.

## 2. SCOPE OF APPLICATION

These T&Cs apply to any access to and/or use of the Web Portal and/or Services.

When creating his User Account, the User must read the T&Cs and tick the box "I have read and accept the General Terms and Conditions of Use" provided for this purpose in the registration form.

By ticking this box, the User acknowledges that he accepts all the clauses of the T&Cs and that, as such, he cannot choose to have only part of the T&Cs applied or to express reservations.

DHYGEE reserves the right to modify, at any time, all or part of these T&Cs and/or the Services. In this case, Users will be informed of any change to the T&Cs at least three (3) days before the effective date of the change. If the User continues to use the Services after the said effective date, the User shall be deemed to have accepted the modification.

## 3. USER ACCOUNT

### a. Creation, validation and use of the User Account

To access and use the Web Portal, each User must log in to the User Account they have previously created.

The creation of a User Account is done from by selecting "create an account" form the purplecare.eu web page.

The user feels the following information:

- Name
- Family Name
- Country
- City
- Practice name
- Speciality
- Email
- Password with 8-characters order to definitively create his User Account.

The User is required to accept the General terms and conditions & the data protection policy.

The User is also free to accept to share his personal information with Dhygee for medical and clinical purposes only. (optional)

Once the User Account is created, the User is invited to complete the information in his User Account by providing certain additional personal information relating to him:

- A profile photo
- A biography
- His online consultation schedule

The User undertakes not to create or use any accounts other than the one initially created, whether under his own identity or that of third parties.

The User acknowledges that any access and use of the Web Portal and Services via his User Account is under his sole responsibility, unless he can demonstrate fraudulent use not resulting from any fault or negligence on his part. In this respect, the User undertakes to notify DHYGEE as soon as possible of any misuse or fraudulent use of his User Account at the e-mail address indicated in the introduction to these C&Ts

#### **b. Modification of the User Account**

At any time, the User may update all the information in his User Account within his dedicated personal space within the Web Portal, with the exception of the email address associated with the User Account. For any modification of this e-mail address, the User must send his request to DHYGEE at the e-mail address: [contact@dhygee.com](mailto:contact@dhygee.com).

As such, the User is solely responsible for the damage he may suffer in the event of inaccuracy of the information concerning him and DHYGEE may not, in any way, be held liable for information communicated by the User which may prove to be inaccurate, erroneous or fraudulent.

#### **c. Period of validity of the User Account**

Subject to the provisions below, the User Account remains valid for an indefinite period from its creation date, the User may access and use the Services during this period of validity.

#### **d. End of the User Account**

The User can terminate his User Account at any time by clicking on the button provided for this purpose within his dedicated personal space within the Web Portal. In such a case, the User will no longer have access to the Web Portal and Services, including his User Account. The users of the Web Portal account can also be closed at any time by sending an email to [redrawconsent@purplecare.eu](mailto:redrawconsent@purplecare.eu)

In the event of inactivity of the account for a period of 2 years, DHYGEE reserves the right to delete the User's personal data.

In the event of a breach by the User, DHYGEE reserves the right, depending on the seriousness and duration of the breach, at its sole discretion, to suspend or delete the User Account, under the conditions of Article 8 below.

### **4. SERVICE DESCRIPTION**

#### **a. Epilepsy self-monitoring**

The Web portal is not intended to be use for epilepsy self-monitoring of Mobile App users.

A Mobile App user can use the Web Portal by creating an account. As stated in section 1 (above) the Web Portal is intended to be use by Healthcare professionals. If a Mobile App user modifies or made

changes through the Web Portal ending in the disturbance, damage, miss use and or working problem of Mobile App system and even harming the Mobile app user, Dhygee cannot be held responsible.

#### b. Remote monitoring

The Users can use the Web Portal to monitor his patient.

To do so the User must enter his dedicated space. Select " + connect patient" and enter the patient using the Mobile App's phone number. Mobile App user will receive a notification through PurpleCare app requesting a connexion form the User. The notification will display the Name and Family Name of the User to avoid any miss acceptance of connection. If the patient accepts, the User will have access to all the relevant medical information entered in the patient Mobile Application and access all linked services.

### 5. OBLIGATIONS

#### a. Obligations of the User

The User acknowledges and accepts that, despite his possibility to interact, review, and use remote monitoring services, this does not replace his normal medical practice and patient follow-up. Dhygee cannot be held responsible and anyway of the User do not perform his duties. Dhygee cannot be held responsible for any mistake or errors that shall be made by the User if using or not the Web Portal.

The User warrants to DHYGEE that it holds all rights and permissions necessary to publish the User Content and Tracking Data it puts online on the Web portal. If so DHYGEE will anonymise all identification information of the User.

The User also guarantees DHYGEE that the User Content and Tracking Data it puts online on Web Portal complies with the legal and regulatory provisions in force and in particular do not constitute a violation of the intellectual property rights of third parties, an infringement of persons (including defamation, insults, etc.), the right to the image of goods and/or persons and respect for privacy, or an infringement of public order and/or morality. As such, the User undertakes not to publish User Content and Monitoring Data that may constitute, in particular, an apology for crimes against humanity, a provocation to commit acts of terrorism and their apology, an incitement to racial hatred, hatred against persons on the grounds of their sex, sexual orientation or sexual identity or disability, as well as child pornography, incitement to violence, including incitement to violence against women, as well as attacks on human dignity.

In addition, the User expressly refrains from using the Web Portal and/or Services:

- For any purpose that is unlawful and/or contrary to these T&Cs;
- To encourage any illegal activity or any other activity that infringes the rights of DHYGEE, other Users or any third party;
- In a manner that would disrupt or damage the Web Service, the Mobile App, Services, devices, servers, networks, or other property of DHYGEE and/or any third party, including without limitation by introducing viruses or other malicious software; or
- For the purpose of referencing offers of goods or services, for any reason whatsoever.

The User undertakes not to borrow the identity of another User.

## b. DHYGEE's obligations

DHYGEE undertakes, as part of an obligation of means, to provide access to the Web Portal and Services in compliance with these T&Cs and to act diligently by implementing, within a reasonable limit, measures to remedy any malfunction brought to its attention.

The User acknowledges and accepts that DHYGEE may be obliged to interrupt access to the Web Portal and/or Services to carry out technical or maintenance work, regardless of its origin or cause, without this entailing any liability on the part of DHYGEE. To the extent possible, DHYGEE will inform Users on the Web Portal home page as soon as possible and will use all reasonable means to reduce the period of unavailability of the Web Portal and/or Services.

# 6. RESPONSIBILITY

## a. User's responsibility

The User is solely responsible for his or her use of the Web Portal and/or Services, and in particular for compliance with his or her obligations under these T&Cs.

As such, the User indemnifies DHYGEE against any complaint, claim, action, demand and/or recourse of any kind that other Users and third parties may make against DHYGEE on the basis of the User's breach of any of its obligations or warranties under these T&Cs, or, more generally, the User's use of the Web Portal and/or Services. The User undertakes to compensate DHYGEE for any prejudice, loss and/or damage that it may suffer and to pay it all costs, charges and/or sentences that it may have to bear as a result.

## b. DHYGEE's liability

DHYGEE's liability towards the User can only be incurred for facts directly attributable to DHYGEE and causing direct prejudice to the User.

In no event shall DHYGEE be liable to the User for any damage caused by the use of this website and/or mobile Application:

- Indirect damage, recognised as such by the Swiss courts,
- Damage resulting from misuse or use of the Web portal and/or Services not in accordance with these T&Cs, or
- Damage resulting from facts attributable to the User, any other User or any third party.

DHYGEE is not the publisher of User Content or Tracking Data. The User acknowledges and agrees that DHYGEE has no a priori control over the User Content or Tracking Data published on the Web Portal. DHYGEE therefore cannot guarantee the accuracy, quality, truthfulness and reliability of the User Content or Tracking Data. DHYGEE shall therefore not be liable for such User Content or Tracking Data, unless it can be demonstrated that DHYGEE:

- Has knowledge of the unlawful nature of such content, and
- Has not promptly acted, as a result of such knowledge, to remove such content or make it inaccessible.

DHYGEE is not the publisher of any content exchanged between Users and their patient(s) or Mobile App users as part of remote monitoring acts, as DHYGEE has no a priori control over such content. DHYGEE acts only as a technical intermediary for the exchange of this content, which the User expressly acknowledges and accepts. As such, as a simple technical service provider not acting in any way as a doctor or health professional, DHYGEE declines all responsibility for the information provided by doctors or other health professionals, and in particular for the accuracy, adequacy, exhaustiveness and quality of the information provided.

Insofar as the Web Portal may contain content that contains links to third-party applications and/or websites over which DHYGEE has no control, the User acknowledges and accepts that DHYGEE cannot be held liable for the content of such third-party applications and/or websites.

The User acknowledges and accepts that DHYGEE cannot be held liable for any inconvenience or damage related to the use of the Internet network, and in particular, without this list being exhaustive, the incorrect transmission and/or reception of any data and/or information on the Internet, the failure of any reception equipment or communication lines, any malfunction of the Internet network preventing the proper functioning of the Web Portal and/or the Services.

The User acknowledges and agrees that the Web Portal and Services, in particular the features enabling epilepsy self-monitoring, are based on Monitoring Data provided by the User himself. In this context, DHYGEE cannot be held liable for any consequences arising from inaccurate or incomplete Monitoring Data, except for the User to prove that this inaccuracy or incompleteness is the direct result of a fact attributable to DHYGEE.

## 7. INTELLECTUAL PROPERTY

### a. Intellectual property of the User

DHYGEE does not acquire any intellectual property rights in the User Content or Tracking Data. Their use by DHYGEE takes place under the conditions provided for herein and within the DHYGEE Privacy Policy.

Each User and holder of intellectual property is responsible for its User Content and Tracking Data. Each User also undertakes to respect the intellectual property rights and, in general, all the rights of Users to their own User Content and Monitoring Data. In particular, the User is not authorized to download, copy, alter, modify, adapt, delete, distribute, transmit, broadcast, sell, sell, rent, lease, grant or exploit the User Content and Tracking Data of any other User, in whole or in part, in any manner whatsoever, without the express prior consent of the other User concerned.

### b. Intellectual Property of PurpleCare

The User acknowledges that the Web Portal and all the elements that compose it (and in particular, and without this list being exhaustive, all texts, graphics, images, logos, names, trademarks, names, names, sounds, photographs, videos, drawings, data, software) are protected by intellectual property law and are and remain the exclusive property of DHYGEE.

Access to and/or use of the Web Portal and/or Services does not constitute recognition of any right and, in general, does not confer on the User any intellectual property right relating to any element of the Web Portal. In particular, the User is not authorised to download, copy, alter, modify, adapt, delete, distribute, transmit, broadcast, sell, sell, rent, lease, concede or exploit the elements that make up the Web Portal and referred to in the previous paragraph, in whole or in part, in any way whatsoever, without the express prior consent of DHYGEE.

Subject to the provisions of Article 8 below, DHYGEE grants the User a personal, non-exclusive and non-transferable right to access, display and use the Web Portal and Services, including the components of the Web Portal, for use strictly in accordance with these T&Cs.

## 8. NON-COMPLIANCE WITH T&Cs

In the event of the User's failure to comply with his obligations under these T&Cs, i. e. arising from articles 1 to 11 of these T&Cs, or under any applicable law or regulation, DHYGEE reserves the right to take any action it deems necessary and in particular to delete User Content and Tracking Data published by the User on the Web Portal, to suspend and/or delete the User's User Account and/or to terminate the right of access, display and use granted to the User in Article 7.2 above, after notification of the breach or, in the event of a breach that can be remedied, after prior formal notice to comply without effect within a reasonable period of time specified in the said notice.

The User acknowledges and agrees that in the event of a breach that may affect the security of the Web Portal and/or the publication of any content that does not comply with these T&Cs, DHYGEE may take the aforementioned measures immediately after notifying the User of the breach.

These measures are without prejudice to any other rights of DHYGEE, including damages to which DHYGEE may be entitled.

## 9. PERSONAL DATA

DHYGEE, as controller, is committed to protecting the privacy and personal data of Users in accordance with legal requirements and in particular Regulation EU 2016/679 of 27 April 2016 on the protection of individuals with regard to the processing of personal data and on the free movement of such data.

Information about how DHYGEE protects the personal data of Users that it collects in connection with the download and use of the Web Portal, and the commitments made by DHYGEE to ensure that Users' personal data are respected, is the subject of a separate Privacy Policy.

## 10.FORCE MAJEURE

In the event of an event of force majeure, leading to a temporary impediment to performance by one of the parties, the respective obligations of the parties shall be suspended, and no party shall be held liable as a result.

If the force majeure event persists for more than thirty (30) consecutive days, and/or if, as soon as it occurs, it causes one of the parties to be definitively prevented from performing, the party to whom the force majeure event is opposed shall be entitled to terminate these T&Cs automatically.

## 11.MISCELLANEOUS

### a. Assignment

The User acknowledges and accepts that DHYGEE may freely assign these T&Cs and all rights and obligations attached thereto to any third party without the prior written consent of the User. The User agrees that such assignment releases DHYGEE for the future.

### b. Non-waiver

The fact that DHYGEE does not invoke any provision at any given time shall not be deemed to constitute a waiver of such provision or of the right to invoke such provision at a later date and/or to claim compensation for any breach of such provision.

### c. Independence

The User acknowledges and accepts that the T&Cs do not create any subordination, agency, association, or joint venture between DHYGEE and the User or between DHYGEE and physicians and other health professionals performing remote monitoring acts. DHYGEE, the User, physicians, and other health professionals each act in their own name and on their own behalf, without being able to bind the other in any way whatsoever.

### d. Severability

If any of the provisions of the T&Cs are held to be null and void and declared invalid pursuant to any law, regulation or final decision of a competent court, such provision shall be deemed unwritten, without affecting the validity of the remaining provisions and shall be replaced by a valid provision of equivalent effect, which the parties undertake to negotiate in good faith.

### e. Assistance - Information - Complaint

Any request for information, clarification, assistance, or complaint relating to the Services and/or the Web Portal should be addressed to DHYGEE by e-mail given in the introduction to these T&Cs.

### f. Applicable law and jurisdiction clause

In the event of a dispute between a User and DHYGEE not settled within one (1) month of DHYGEE receiving a written complaint from the User addressed to DHYGEE under the conditions of Article 11.5 above, each party may bring this dispute before the competent Swiss courts, it being specified that the User may use any alternative dispute resolution method and in particular a mediation procedure by accessing the European online dispute resolution platform at the following address: <http://ec.europa.eu/odr> which will attempt an amicable resolution.