

Subscription Agreement

You or your nonprofit organization (“Subscriber”) have requested access to the Cool Focus™ online nonprofit management solution (the “Service”) provided by WayCool Software, Inc. (“WayCool”), an Alabama Corporation. Use of the Service is subject to this Subscription Agreement which incorporates by reference the Privacy Policy and the Terms of Use also available at the Site. **BY USING THE SERVICE, SUBSCRIBER AGREES TO THE SUBSCRIPTION AGREEMENT. IF SUBSCRIBER DISAGREES WITH THE SUBSCRIPTION AGREEMENT, DO NOT USE THE SERVICE.**

Term

The term of Subscriber’s subscription begins on the date Subscriber activates an account and - unless a different term is selected during signup or from one of WayCool’s authorized customer support representatives - runs on a month-to-month basis. Subscriber may cancel any time by contacting a customer support representative and giving thirty days notice to cancel. (WayCool does not provide prorated credits or refunds, outside of any applicable money back guarantee.)

Contacting customer support to cancel is a necessary step, takes just a few minutes, and serves as an added safeguard by securing an additional acknowledgement of our data deletion policies. It also gives Subscriber the opportunity (for a fee) to have data extracted to an Excel Spreadsheet (Support is available during business hours, Monday through Friday, 8am-5pm Central Time.) If Subscriber does not cancel Subscriber’s account, the account will automatically renew for the same term length most recently in effect.

Fees

Subscription Fees are subject to change and may be viewed on the “Pricing” page of the Site. Subscription fees are due at the end of each month of service made available to Subscriber. By giving payment information (credit card information, bank account information, etc.), Subscriber expressly gives WayCool permission to charge for all fees incurred in connection with Subscriber’s account. For example, if Subscriber activated an account on June 1st (on a monthly billing cycle) fees for June service are due in full on June 1st. Fees for July service will be due July 1st, and so forth. If Subscriber crosses a billing limit during the month, the RECORD COUNT at the END of the month is used to determine the fee for the month. For example, if Subscriber has 990 records on June 1st and on June 30th has 1,002 Subscriber will be billed at the higher level for that month. If WayCool does not receive timely payment, WayCool may suspend or terminate Subscriber’s account. If an account is suspended for nonpayment, Subscriber will be charged an additional \$50 reinstatement fee. Any accrued but unpaid fees may accrue late charges at the rate of \$15 per month, and Subscriber grants permission to WayCool to charge Subscriber’s account for such accrued and unpaid fees at any time on or after they have accrued. If Subscriber’s account goes unpaid for forty-five (45) days, such account is subject to termination and collection action will begin. Subscriber agrees to pay any cost incurred to collect unpaid fees, including attorneys’ fees and court costs.

As with other online service providers, WayCool works with companies to handle payment processing. Subscriber agrees that WayCool can share any credit card and related billing information with those companies, but only for checking credit, servicing Subscriber's account, in response to valid legal process, or to establish or protect WayCool's rights. WayCool does not assume any responsibility for any use or disclosure by any such third parties.

Additional Users

Each user should have a unique user ID and password - WayCool does not authorize sharing user IDs. This helps WayCool better support use of the Service, and because there are practical security issues that can arise from sharing user IDs. Accordingly, sharing IDs is neither authorized nor a good idea, especially for centers dealing with confidential matters.

No Refunds

With very few exceptions (such as honoring the terms of any applicable published money-back guarantee or uptime guarantee), WayCool does not issue refunds or prorated credits. This strict "no refund" policy is important to WayCool's business for several reasons. It helps WayCool efficiently address anticipated server loads, it allows WayCool to keep improving its software, and helps reduce administrative costs. Please do not ask the support team to deviate from this policy.

WayCool Responsibilities

It is WayCool's ongoing desire to keep the Service up, accessible, and fast. WayCool agrees to keep confidential all data stored in Subscriber's account, according to the terms set forth in the paragraph titled "Intellectual Property Rights" and the paragraph titled "Response To Legal Process" below. When WayCool scheduled maintenance is necessary, all attempts will be made to schedule it at times when most users are not typically online. Advance alert for scheduled maintenance will be made through the Service. If at any time Subscriber cannot access an account, please contact the support team. The support team is available to Subscriber by phone between 8am and 5pm Central time, or email anytime at support@waycoolsw.com. Nearly all support emails are responded to within 24 business hours or less. In the unlikely event of a systemwide issue, it is likely WayCool already knows about it (from regularly monitoring of the Service), and multiple people are attempting to resolve it as quickly as possible.

Sometimes the Internet - or an individual connection to it - can be slow or inaccessible, which that can adversely affect the experience using the Service. Also, it is possible that other events can happen that adversely affect the Service or Subscriber's ability to access it, which events are out of WayCool's or Subscriber's control (e.g. Acts of God, DNS, or other attacks). Neither party is responsible for the effect of any such events.

Subscriber Responsibilities

The person or organization in whose name the account is activated is ultimately responsible for all use of the account, all actions of individual users, and all the data uploaded to the account. As

such, we strongly recommend that Subscriber and each individual user follow “good computing” practices, such as: keeping all user IDs and passwords confidential; frequently changing passwords; using good antivirus and security software; and keeping multiple copies of important data in secure, remote locations. Passwords should be strong, utilizing combinations of upper and lower case characters, numbers, and special characters.

HIPAA Safeguards

The Service provides secure online access to Subscriber’s database. The Service meets all standards set for HIPAA compliance. WayCool implements the following safeguards to protect Electronic Public Health Information (“EPHI”):

Physical safeguards including limited facility access and control, with authorized access in place.

Technical safeguards that allow only authorized users access to electronic protected health data. Access control includes using unique user IDs, an emergency access procedure, automatic log off and encryption and decryption.

Audit reports, or tracking logs, to keep records of activity on hardware and software.

Disaster recovery protocols and offsite backup to ensure that any electronic media errors or failures can be quickly remedied and patient health information can be recovered accurately and intact.

All data is encrypted when entered into the Service, to protect against unauthorized public access of EPHI.

Subscriber is responsible for taking steps to protect from unauthorized use of online communications, such as keeping passwords confidential. WayCool is not responsible for breaches of confidentiality caused by Subscriber or an independent third party

Guidelines for Account Administration

It is important that Subscriber closely monitor the status and identity of each user - particularly users who have been assigned administrative access to Subscriber’s Account. Each user has certain abilities and access rights, and WayCool assumes no responsibility for acting on requests consistent with the guidelines below.

Generally, the party responsible for payment of the account ("Account Holder") has the authority, during the period for which the party has paid for access to the account, to:

(a) cancel the account

(b) add, edit, and delete users (including the ability to grant or deny access to "administrative access" and access to billing reports and functionality); and

(c) access any and all data in the account, including the authority to contact support and request and override user-designated access permissions.

A user that has been granted "administrative access" rights in the Service automatically has the authority set forth above.

The party or entity whose credit card and/or other payment information being used for the account ("Designated Payor") will have the same access rights as the Account Holder, even if the Designated Payor is not the same person or entity as the Account Holder. Accordingly, the Account Holder should use extreme care when determining the Designated Payor, and should review such information regularly to confirm its accuracy.

NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THIS AGREEMENT, AT ALL TIMES WAYCOOL RESERVES THE EXCLUSIVE RIGHT (BUT DO NOT ASSUME THE OBLIGATION) TO REQUEST ANY ADDITIONAL EVIDENCE THAT BELIEVED, AFTER CONSULTATION WITH OUR COUNSEL, TO BE REASONABLE AND SUFFICIENT TO ESTABLISH THAT THE INDIVIDUAL REQUESTING SUPPORT PERSONNEL TO CONDUCT ANY PARTICULAR ADMINISTRATIVE ACTION HAS THE REQUISITE LEGAL AUTHORITY TO DO SO.

Activities We Don't Allow

The Service is not be used for: (a) any independent licensing, sublicensing, renting, leasing, or other kind of resale; (b) any distribution of "spam"; (c) sending, storing or uploading any obscene, unlawful or infringing material, or violating anyone's rights; (d) sending, storing, or uploading any malicious code, viruses, or the like, or doing anything that disrupts the performance of the Service generally; (e) impersonating anyone, including our personnel; (f) providing support or resources to organizations designated by the United States government as terrorist organizations; (g) attempting to gain unauthorized access to our servers or customers; or (h) any unlawful activity. The Service is not to be accessed in any way other than by the WayCool provided or authorized login interface.

Terminating Your Account

WayCool reserves the right to suspend or terminate Subscriber's account at any time; however, as a practical matter, suspension or termination usually only happens in two circumstances: (a) unpaid subscription fees; or (b) failure to comply with this agreement. In most cases, in the event of nonpayment customer support representatives will make a reasonable attempt to contact the Designated Payor to provide an opportunity to bring the account current. If there is a breach of subscription terms, the precise course of action will depend upon the nature of the breach and the effect, if any, on the Service as a whole and WayCool's intellectual property rights.

IF AN ACCOUNT IS TERMINATED FOR ANY REASON, DATA EXISTING IN THE ACCOUNT (INCLUDING, BUT NOT LIMITED TO, CONTACTS, CALENDAR ENTRIES, UPLOADED DOCUMENTS, TASKS, AND SO FORTH), IS SUBJECT TO IMMEDIATE

DELETION AND IN ALL CASES WILL BE PERMANENTLY DELETED WITHIN APPROXIMATELY 14 DAYS OF ACCOUNT TERMINATION. IF SUBSCRIBER CHOOSES TO TERMINATE AN ACCOUNT, IT IS IMPORTANT THAT SUBSCRIBER PLAN AHEAD AND REMOVE ANY DATA PRIOR TO THE EXPIRATION OF THE PAID TERM IN EFFECT. The support team will gladly provide instructions for retrieving data during an active subscription period.

If Subscriber's account is terminated before all data is received, Subscriber may request to schedule an attempted "restore" of a previously licensed account. Restores requested within 90 days of termination are occasionally possible but require the intervention of technical personnel and will incur additional fees. A successful restore consists of a reactivation of an account to its status as it existed on the last date of paid service. Restores are not guaranteed as they are conditional upon several factors, including the frequency of the automated backup and deletion procedures executed by our technical partners.

Intellectual Property Rights

The Service is owned and operated by WayCool. WayCool's company websites, manuals, FAQs, and all related collateral materials, in addition to the WayCool or CoolFocus and CoolFocus Web names, logos, taglines, and goodwill all belong exclusively to WayCool. Subscriber's rights to use the Service and the related materials are subject to the terms of this agreement. WayCool does not grant any rights to use anything else without written consent from one of its authorized company officers. WayCool does not allow anyone to: (a) modify, copy, or create derivative works based on the Service, its copyrighted design, or its "look and feel"; (b) frame or mirror any part of the Service; (c) use any "bots", "spiders", scripts, or other similar devices or processes in connection with any of our property; or (d) reverse engineer, decompile or disassemble any of our property.

Data uploaded or entered into an account is treated as strictly confidential, and will not be used or disclosed to anyone except as set forth in this agreement. WayCool only accesses and uses such information: (a) with Subscriber's consent; (b) to address technical problems or handle support issues, and then only in a highly confidential manner; or (c) as may be required to comply with applicable law.

All data uploaded to an account is owned by Subscriber and is confidential; however, access to such data is always subject completely to the terms of this agreement.

Liability Limitations

WITH THE SOLE EXCEPTION OF THE EXPRESS TERMS OF ANY SERVICE-LEVEL GUARANTEE THEN IN EFFECT, THE SERVICE, IS MADE AVAILABLE "AS IS", "WITH ALL FAULTS" AND "AS AVAILABLE." WAYCOOL MAKES NO WARRANTIES OR REPRESENTATIONS OF ANY KIND WITH RESPECT TO THE SERVICE, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE,

OR NON-INFRINGEMENT, EACH OF WHICH IS HEREBY EXPRESSLY DISCLAIMED. THERE IS NO GUARANTEE THAT ACCESS TO THE SERVICE WILL BE UNINTERRUPTED OR ERROR-FREE OR THAT ANY DEFECTS WILL BE CORRECTED. WAYCOOL IS NOT LIABLE FOR DAMAGES ARISING OUT OF, OR IN CONNECTION WITH, THE USE OF (OR THE INABILITY TO USE) THE SERVICE. WAYCOOL IS NOT LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL, PUNITIVE, OR EXEMPLARY DAMAGES ARISING FROM OR RELATING TO THE SERVICE. THE EXCLUSIVE REMEDY WITH RESPECT TO THE SERVICE IS TO DISCONTINUE USE OR TERMINATE SERVICE IN ACCORDANCE WITH THE CURRENT APPLICABLE ACCOUNT TERMINATION PROCEDURES. THIS LIMITATION OF LIABILITY SHALL APPLY EVEN IF WAYCOOL HAD BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, REGARDLESS OF HOW SUCH DAMAGES MAY HAVE ARISEN, AND REGARDLESS OF THE LEGAL OR EQUITABLE THEORY UPON WHICH A CLAIM IS BASED.

THE SERVICE IS NOT FAULT-TOLERANT AND IS NOT DESIGNED, OR INTENDED FOR USE AS, OR IN CONNECTION WITH, ONLINE CONTROL EQUIPMENT IN HAZARDOUS ENVIRONMENTS REQUIRING FAIL-SAFE PERFORMANCE, IN WHICH THE FAILURE OF THE SERVICE IN ANY MANNER COULD LEAD, DIRECTLY OR INDIRECTLY, TO DEATH, PERSONAL INJURY, OR SEVERE PHYSICAL OR ENVIRONMENTAL DAMAGE ("HIGH RISK ACTIVITIES"). IN ADDITION TO THE OTHER DISCLAIMERS AND LIMITATIONS CONTAINED WITHIN THIS AGREEMENT, WAYCOOL SPECIFICALLY DISCLAIMS ANY EXPRESS OR IMPLIED WARRANTY OF FITNESS FOR HIGH RISK ACTIVITIES.

Note that from time to time WayCool may provide functionality that facilitates access to other third party applications or services. WayCool does not assume any responsibility for the operation or support of such applications, the terms and conditions for use of those services are set by their respective providers.

Sometimes, The Service will offer an additional BETA login. When there is an option to use The Service in BETA, Subscriber acknowledges that BETA use is for the purpose of testing new features and updates and agrees to take necessary precautions to protect Subscriber's data.

The warranty limitations, disclaimers, and other legal protections applicable to WayCool herein may be asserted in full by its parent, employees, officers, directors, and affiliated companies, and each are intended third-party beneficiaries of such protections.

Assignment/Notices

WayCool may assign its rights or delegate its duties without Subscriber's consent so long as such action does not have an adverse effect on the functionality of Subscriber's account; however, Subscribers cannot assign any rights without WayCool's written consent, which will not be unreasonably withheld or delayed. Any notice permitted or required to be given by Subscriber will be deemed given and effective when sent to WayCool by overnight mail, through an

internationally recognized carrier (e.g FedEx, UPS, USPS), addressed to the headquarters address listed on WayCool's website, marked "Attention: General Counsel." WayCool may send notices to Subscriber by sending an e-mail to the official e-mail address provided in Subscriber's account contact information.

Comments and Suggestions

WayCool welcomes comments and suggestions, and the design team regularly reviews them. Submitting comments and suggestions is completely voluntary. WayCool does not provide any compensation or acknowledgement for them, but suggestions are valued as important feedback. Please do not ever send anything that may infringe upon someone else's rights or violate any confidences - WayCool does not want any such information and assumes no responsibility for it.

Indemnity

Subscriber agrees to indemnify, hold harmless, and defend WayCool (and each of its affiliated companies, employees, officers, and directors) from and against any claims and expenses, including attorneys fees, arising out of use of the Service.

Response to Legal Process

The privacy and security of account data is of the utmost importance. If WayCool is served with a legal request to produce or disclose any account data (such as through subpoena or court order) WayCool will first provide the affected Subscriber with notice of the disclosure request to provide such Subscriber with the opportunity to promptly intervene, unless specifically prohibited from doing so by law. WayCool reserves the right to take any action necessary to comply with law, to protect WayCool's rights, or to protect the rights of other subscribers.

Miscellaneous

This agreement shall be interpreted and construed in accordance with the laws of the state of Alabama. Any dispute arising out of, or relating to, this agreement that has not been resolved after a reasonable attempt by the parties (which attempt shall include at least one (1) in-person meeting or video conference between principals of each party with full authority to resolve the dispute), and which does not directly relate to the: (a) enforcement of intellectual property rights; (b) claim for injunctive relief; or (c) collection on unpaid accounts shall be submitted to arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association then in effect. The arbitration shall be conducted in Shelby County, Alabama, unless otherwise mutually agreed. Any action outside of the scope of arbitration shall be brought exclusively in courts situated in Shelby County, Alabama, and Subscriber consents to the exclusive jurisdiction of such courts. The parties agree that the prevailing party in any litigation or arbitration shall be entitled to recover reasonable legal fees, costs and disbursements from the non-prevailing party. In the event any provision of this agreement is held illegal, void or ineffective, the remaining portions will remain in full force and effect. This agreement shall not be construed to create any third-party beneficiaries. WayCool may modify this agreement from

time to time and such modification shall be automatically effective upon posting in the Service or on the company website at www.waycoolsw.com. Continued use of the Service after the posting of a revised agreement constitutes your acceptance of the revised agreement. This agreement constitutes the entire agreement between the parties regarding the subject matter of the agreement and supersedes all prior and contemporaneous undertakings and agreements, whether written or oral.

The arbitration provision above does not apply to collection claims for unpaid amounts owed by you. Such claims may be submitted to an appropriate Court in Shelby County Alabama for litigation.

The Service is controlled, operated and administered by WayCool from its offices within the United States of America. Data used in connection with the Service, and the Service itself, is hosted on servers physically located in the United States. WayCool makes no representation that the Service is appropriate or available for use at other locations outside the United States. If Subscriber accesses the Service from a location outside the United States Subscriber is responsible for compliance with all applicable local laws, including, but not limited to, the export and import regulations of other countries. Subscriber agrees that use of The Service is subject to the United States Export Administration Laws and Regulations.

Effective date: this policy was last updated by WayCool's General Counsel on February 4, 2013.

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