

Last Modified:

**IF THIS IS A MEDICAL EMERGENCY OR CRISIS SITUATION, DIAL 9-1-1 IMMEDIATELY**

**Healiom, Inc.**

**Terms of Use**

**Carefully read these terms and conditions of use (“Terms of Use”) as they govern your access to and use of Healiom, Inc.’s (“Healiom,” “we,” “us,” and “our”) Platform. Your acknowledgement of, acceptance of, and compliance with, these Terms of Use is a condition to your use of the following:**

- Healiom (our “**App**”);
- Holmes (our, “AI Software”) and Healiom (our, “Platform Software”) (collectively, our “Software”); and
- The services (“**Services**”) made available through our App.

The non-medical business support services, our App and/or our Software are collectively referred to as our “**Platform.**”

Healiom is not a medical group or a health care provider. Healiom provides its users with the ability to obtain medical services through a virtual consultation provided by independent medical practitioners including, but not limited to, [INSERT PC NAME] (“**Medical Group**”), an independent medical group with a network of United States based health care providers (each, a “**Provider**”). Medical Group (or your own medical provider if you do not use a Medical Group Provider) is responsible for providing you with a Notice of Privacy Practices describing its collection and use of your health information, not Healiom.

**By clicking “Accept,” you acknowledge that you have read in its entirety, understand, and fully accept all terms and conditions contained in these Terms of Use, our Privacy Policy, and the Notice of Privacy Practices provided to you by the Medical Group. If you do not agree to be bound by these Terms of Use and our Privacy Policy, you are not authorized to access or use our Platform and/or the Services; PROMPTLY EXIT THIS APP.**

**Binding Arbitration.** These Terms of Use provide that all disputes between you and Healiom that in any way relate to these Terms of Use, the Platform, and/or the Services will be resolved by BINDING ARBITRATION. ACCORDINGLY, YOU AGREE TO GIVE UP YOUR RIGHT TO GO TO COURT (INCLUDING IN A CLASS ACTION PROCEEDING) to assert or defend your rights under these Terms of Use. Your rights will be determined by a NEUTRAL ARBITRATOR and NOT a judge or jury and your claims cannot be brought as a class action. Please review [Dispute Resolution; Arbitration Agreement](#) for the details regarding your agreement to arbitrate any disputes with Healiom.

**1. SERVICES PROVIDED – No MEDICAL CARE OR ADVICE**

Healiom is not a medical group and does not provide medical advice, care, and/or treatment. Healiom provides administrative and management services to independent, physician-owned and operated, medical practices. Any telemedicine consults obtained through our Platform are provided by Providers, including but not limited to Medical Group. Healiom licenses the “Healiom” brand name to Medical Group and other affiliated medical practices that use our Platform to assist in the provision of Services. Each Healiom-branded practice is owned and operated by a licensed physician. There is no single provider of medical care called “Healiom.” Each Healiom-branded practice engages a network of United States based clinicians who

provide clinical telehealth services. The Providers deliver clinical services via the Platform to their patients. Healiom does not provide medical advice or care, own or operate the medical practices, employ or in any way supervise the clinicians providing medical care, and control over the care provided is the sole responsibility of the independent medical practices and the Providers they employ. Services and practices may vary across Providers, and patients should contact Medical Group directly for all questions concerning their medical care.

## **2. YOUR MEDICAL VISIT WITH MEDICAL GROUP**

The Medical Group, by utilizing the Healiom Platform, provides you the ability to obtain an initial on-demand virtual consultation in an expedited manner (the “**Intake Consultation**”). The Intake Consultation shall be provided by individuals that are contracted or employed with the Medical Group. In order to ensure that your requests for a virtual consultation are met as quickly as possible, the Medical Group may utilize health care professionals not licensed in your state but who are available to assist your Provider during the Intake Consultation (“**Triage Specialist**”). Once your Intake Consultation has concluded, the information and any recommendations made during your Initial Consultation shall be provided to a Provider who is appropriately licensed and who shall be your treating provider (your “**Treating Provider**”). The Treating Provider shall review information from the Intake Consultation and using his/her independent professional medical judgment shall decide whether any recommendations made by the Triage Specialist are medically appropriate and necessary. Any and all treatment and/or prescriptions shall be prescribed and/or recommended by your Treating Provider.

## **3. THE TRIAGE SPECIALIST AND YOUR TREATING PROVIDERS**

You acknowledge that the Triage Specialist is not your Treating Provider, nor shall any advice or recommendations provided by the Triage Specialist during the Intake Consultation be considered medical advice or treatment. Medical advice, treatment, and/or prescriptions are only provided to you by your Treating Provider. Any recommendations made by the Triage Specialist shall be reviewed for medical and clinical appropriateness by the Treating Provider. To the extent a prescription or further medical treatment is recommended, the Treating Provider shall utilize his/her independent professional judgement to determine whether the recommendations provided are medically appropriate and/or necessary. The provider-patient relationship will be between you and your Treating Provider. You will never have a provider-patient relationship with the Triage Specialist.

## **4. NOT FOR EMERGENCIES**

Our Platform and the Services are not for medical emergencies. You should not disregard or delay seeking medical advice based on anything that appears or does not appear on our Platform. **If you believe you are experiencing an emergency, call 9-1-1 immediately.**

You should seek emergency help or follow up care when recommended by a Provider or when otherwise needed. You should continue to consult with your primary provider and other healthcare professionals as recommended. Always seek the advice of a physician or other qualified healthcare provider concerning questions you have regarding a medical condition and before stopping, starting, or modifying any treatment.

## **5. RISK OF TELEHEALTH SERVICES**

By using the Services, you acknowledge the potential risks associated with telehealth services. These include but are not limited to the following: information transmitted may not be sufficient (e.g. poor resolution of images) to allow for appropriate medical or health care decision making

by your Treating Provider; delays in evaluation or treatment could occur due to failures of electronic equipment; a lack of access to your medical records may result in adverse drug interactions or allergic reactions or other judgment errors; although the electronic systems we use incorporate network and software security protocols to protect the privacy and security of health information, those protocols could fail causing a breach of privacy of your health information.

## **6. PRIVACY PRACTICES**

You agree that information provided by you in connection with the Platform and the Services shall be governed by the Privacy Policy, which is hereby incorporated and made part of these Terms of Use. You also agree that information provided by you in connection with the Services shall also be governed by the applicable Medical Group Notice of Privacy Practices, and is hereby incorporated and made part of these Terms of Use.

## **7. PRESCRIPTION POLICY**

Certain products available through the Platform require a valid prescription by your Treating Provider. You will not be able to obtain a prescription product unless you have completed a consultation through the Platform, the Treating Provider has determined the prescription product is appropriate for you, and the Treating Provider has written a prescription.

If your Treating Provider determines a prescription product is appropriate for you and writes a prescription, you may fill the prescription at any pharmacy of your choice as prompted during your use of the Services.

You agree that any prescriptions that you acquire from your Treating Provider will be solely for your personal use. You agree to fully and carefully read all provided product information and labels and to contact a physician or pharmacist if you have any questions regarding the prescription. We fully honor patient freedom of choice and, if you receive a prescription for a medication, you always have the option to instruct your Treating Provider to transmit that prescription to the pharmacy of your choice.

## **8. NOT AN INSURANCE PRODUCT**

We are not an insurer, nor do we offer an insurance plan or product. The amounts you pay to us for any Services obtained through the Platform are not insurance premiums. If you desire any type of health or other insurance, you will need to purchase such insurance separately.

## **9. OWNERSHIP OF THE PLATFORM**

The Platform contains confidential and proprietary information, materials, data, databases, contents, processes, methodologies, know-how, software, text, displays, images, video, audio, trademarks, logos, service marks, features and functionality, and the design, selection and arrangement thereof, are owned by Healiom, its licensors or other providers of such material and are protected by United States and international copyright, trademark, patent, trade dress, trade secret and other intellectual property or proprietary rights laws (collectively, the **“Content”**).

These Terms of Use permit you to use the Platform for your personal, non-commercial use only. You must not reproduce, distribute, modify, create derivative works of, publicly display, publicly perform, republish, download, store or transmit any of the material on our Platform, including but not limited to Content, except: (a) your computer may temporarily store copies of such materials in RAM incidental to your accessing and viewing those materials; (b) you may

store files that are automatically cached by your Web browser for display enhancement purposes; and (c) you may print or download one copy of a reasonable number of pages of the Platform for your own personal, non-commercial use and not for further reproduction, publication or distribution. You must not: (a) modify copies of any materials from the Platform or received through the Services; (b) use any illustrations, photographs, video or audio sequences or any graphics separately from the accompanying text; or (c) delete or alter any copyright, trademark or other proprietary rights notices from copies of materials from the Platform.

You may not frame or utilize framing techniques to enclose, or deep linking to, any name, trademarks, service marks, logo, content, or other proprietary information (including, without limitation, images, text, page layout, or form) of Healiom without our express written consent.

You must not access or use any part of the Platform or any services or materials available through the Platform for outsourcing for others or as part of a service bureau business so otherwise for the benefit of unaffiliated third parties who pay directly for its benefit or for other similar commercial purposes, or otherwise exploited for any commercial purpose without express written consent of Healiom.

If you print, copy, modify, download or otherwise use or provide any other person with access to any part of the Platform in breach of the Terms of Use, your right to use the Platform will cease immediately and you must, at our option, return or destroy any copies of the materials you have made. No right, title or interest in or to the Platform or any content on the Platform is transferred to you, and all rights not expressly granted are reserved by Healiom. Any use of the Platform not expressly permitted by these Terms of Use is a breach of these Terms of Use and may violate copyright, trademark and other laws.

#### **10. AVAILABILITY OF SERVICES**

Healiom operates subject to state and federal regulations, and the Platform may not be available in your state. You represent that you are not a person barred from enrolling for or receiving the Platform under the laws of the United States or other applicable jurisdictions in which you may be located. Access to and use of the Platform is limited exclusively to users located in states within the United States where the Platform is available. Services are not available to users located outside the United States. Accessing the Platform from jurisdictions where content is illegal, or where we do not offer the Platform, is prohibited.

#### **11. ACCESS TO PLATFORM, SECURITY, AND RESTRICTIONS; PASSWORDS**

You are prohibited from violating or attempting to violate the security of the Platform, including, without limitation, (a) accessing data not intended for such user or logging onto a server or an account which the user is not authorized to access; or (b) attempting to probe, scan, or test the vulnerability of a system or network or to breach security or authentication measures without proper authorization; or (c) accessing or using the Platform or any portion thereof without authorization, in violation of these Terms of Use or in violation of applicable law.

You may not use any scraper, crawler, spider, robot or other automated means of any kind to access or copy data on the Platform, deep-link to any feature or content on the Platform, bypass our robot exclusion headers or other measures we may use to prevent or restrict access to the Platform.

Violations of system or network security may result in civil or criminal liability. Healiom will investigate occurrences that may involve such violations and may involve, and cooperate with,

law enforcement authorities in prosecuting users who are involved in such violations. You agree not to use any device, software, or routine to interfere or attempt to interfere with the proper working order or manner of the Platform or any activity being conducted on the Platform.

In the event access to the Platform or a portion thereof is limited requiring a user ID and password (“**Protected Areas**”), you agree to access Protected Areas using only your user ID and password. You agree to protect the confidentiality of your user ID and password, and not to share or disclose your user ID or password to any third party. You agree that you are fully responsible for all activity occurring under your user ID. Your access to the Platform may be revoked by Healiom at any time with or without cause. You agree to defend, indemnify, and hold Healiom harmless from and against all third party claims, damages, and expenses (including reasonable attorneys’ fees) against or incurred by arising out of your breach of these Terms of Use or violation of applicable law, your use or access of the Platform, or access by anyone accessing the Platform using your user ID and password.

If you submit, upload, post, or transmit any health information, medical history, conditions, problems, symptoms, personal information, consent forms, agreements, requests, comments, ideas, suggestions, information, files, videos, images, or other materials to us or our Platform (“**User Information**”), you agree not to provide any User Information that (a) is false, inaccurate, defamatory, abusive, libelous, unlawful, obscene, threatening, harassing, fraudulent, pornographic, or harmful, or that could encourage criminal or unethical behavior, (b) violates or infringes the privacy, copyright, trademark, trade dress, trade secrets, or intellectual property rights of any person or entity, or (c) contains or transmits a virus or any other harmful component. You agree not to contact other Platform users through unsolicited e-mail, telephone calls, mailings, or any other method of communication. You represent and warrant to Healiom and Medical Group that you have the legal right and authorization to provide all User Information to Healiom and Medical Group for use as set forth herein and required by Healiom and the Medical Group Provider.

Healiom or Medical Group may de-identify your information such that it is no longer considered protected health information or personally identifiable information. Healiom or Medical Group may disclose, aggregate, sell, or otherwise use such de-identified information to third parties for analytics, research, or other purposes.

## **12. NO USERS UNDER 18 YEARS OLD**

In order to access the Platform and the Services, you represent and warrant that you are 18 years old or older. If you are under the age of 18, please do not attempt to register with us on the Platform or provide any personal information about yourself to us. If we learn that we have collected personal information from someone under the age of 18, we will promptly delete that information. If you believe we have collected personal information from someone under the age of 18, please [Contact Us](#).

## **13. YOUR ACCOUNT**

You agree to: (a) provide true, accurate, current, and complete information when registering to use the Platform and establishing your account (“**Registration Information**”) and (b) maintain and promptly update the Registration Information to keep it true, accurate, current, and complete. If you provide any information that is untrue, inaccurate, not current, or incomplete, or we have reasonable grounds to suspect that such information is untrue, inaccurate, not current, or incomplete, we may suspend or terminate your account. You are entirely responsible

for maintaining the confidentiality of any passwords and any usage and activities that occur in connection with your account. You agree not to allow others to access your account or utilize your password. Doing so will compromise the security of your account.

#### **14. ACCURACY AND INTEGRITY OF INFORMATION; COLORS**

Although we attempt to ensure the integrity and accuracy of the Platform, we makes no representations, warranties, or guarantees whatsoever as to the correctness or accuracy of the Platform and Content thereon. It is possible that the Platform could include typographical errors, inaccuracies, or other errors, and that unauthorized additions, deletions, and alterations could be made to the Platform by third parties. In the event that an inaccuracy arises, please inform us so that it can be corrected. We reserve the right to unilaterally correct any inaccuracies on the Platform without notice. Information contained on the Platform may be changed or updated without notice. Additionally, Healiom shall have no responsibility or liability for information or Content posted to the Platform from any unaffiliated third party.

We have made significant efforts to accurately display the colors of our products that appear on the Platform. However, as the actual colors you see will depend on your monitor, we cannot guarantee that your monitor's display of any color will be accurate.

#### **15. TYPOGRAPHICAL ERRORS AND INCORRECT PRICING**

In the event a Product or Service is listed at an incorrect price due to typographical error or error in pricing information received from our suppliers or business partners, we shall have the right to refuse or cancel any orders placed for a Product or Service listed at the incorrect price. We shall have the right to refuse or cancel any such orders whether or not the order has been confirmed and your credit or debit card charged. If your credit or debit card has already been charged for the purchase and your order is canceled, we shall promptly issue a credit to your credit or debit card account in the amount of the incorrect price.

#### **16. ORDERS AND PURCHASES**

##### **ONLINE PAYMENTS**

You can purchase products or pay for Services on the Platform. To simplify the user experience on the Platform, you are able to pay for your purchases via the Platform with Healiom serving as payment processing agent on your behalf. If you elect to purchase a Service from Medical Group, then the total price you pay includes the amount charged by Medical Group for the Service. We collect the amounts charged by Medical Group on your behalf and pass through to them the payment for their actual charges. Before making a purchase, you will see an itemized invoice listing the actual charges by Medical Group for the Services.

##### **SUBSCRIPTION TERMS**

If you purchase a subscription to our Platform and/or Services, your subscription is continuous and will be automatically renewed at the end of the applicable subscription period, unless you cancel your subscription before the end of the then-current subscription period by [Contacting Us](#). If you cancel your subscription, your account will automatically close at the end of your current billing period. Healiom may change the price for your Platform subscription, from time to time and will communicate any price changes to you in advance and, if applicable, how to accept those changes. Price changes will take effect at the start of the next subscription period following the date of the price change. Subject to applicable law, you accept the new price by continuing to use the Platform after the price change takes effect. If you do not agree with a

price change, you have the right to reject the change by unsubscribing prior to the price change going into effect.

We accept credit and debit cards issued by U.S. banks. If a credit card account is being used for a transaction, we may obtain preapproval for an amount up to the amount of the payment. If you enroll to make recurring payments automatically, all charges and fees will be billed to the credit card you designate during the setup process. If you want to designate a different credit card or if there is a change in your credit card, you must change your information online. This may temporarily delay your ability to make online payments while we verify your new payment information.

You represent and warrant that if you are making online payments that (a) any credit card, debit card and bank account information you supply is true, correct, and complete, (b) charges incurred by you will be honored by your credit/debit card company or bank, (c) you will pay the charges incurred by you in the amounts posted, including, without limitation, any applicable taxes, and (d) you are the person in whose name the card was issued and you are authorized to make a purchase or other transaction with the relevant credit card and credit card information. If we are unable to secure funds from the payment method you provide for any reason, including insufficient funds in the payment method or insufficient or inaccurate information provided by you when submitting electronic payment, we may undertake further collection action, including application of fees to the extent permitted by law. You acknowledge and agree that you will not dispute the charges from Healiom, Medical Group, or any third party payment processor with the payment method company, provided the transactions correspond to the terms indicated in these Terms of Use.

#### **17. ORDER ACCEPTANCE**

We reserve the right, at our sole discretion, to refuse or cancel any order for any reason. Your account may also be restricted or terminated for any reason, at our sole discretion. For your convenience, you will not be charged until your payment method is authorized, the order information is verified for accuracy and your order is shipped. Some situations that may result in your order being canceled include limitations on quantities available for purchase, inaccuracies or errors in product or pricing information, or problems identified by our credit and fraud avoidance department. We may also require additional verifications or information before accepting any order. We will contact you if all or any portion of your order is canceled or if additional information is required to accept your order. If your order is canceled after your credit card (or other payment account) has been charged, we will issue a credit to your credit card (or other applicable payment account) in the amount of the charge.

#### **18. LINKS TO OTHER SITES**

We make no representations whatsoever about any other website that you may access through the Platform. When you access a non-Healiom website, please understand that it is independent from us, and that we have no control over the content on that website. In addition, a link to a non-Healiom website does not mean that we endorse or accept any responsibility for the content, or the use, of the linked website. It is up to you to take precautions to ensure that whatever you select for your use or download is free of such items as viruses, worms, Trojan horses, and other items of a destructive nature. If you decide to access any of the third party websites linked to the Platform, you do this entirely at your own risk.

## **19. CONSENT TO RECEIVE CALLS, TEXT MESSAGES, AND AUDIO AND/OR VIDEO RECORDING**

By providing your mobile number, you are agreeing to be contacted by or on behalf of Healiom at the mobile number you have provided, including calls and text messages, to receive informational, product or service related (e.g., progress tracking, reminders, etc.) messages and communications relating to the Platform. Message and data rates may apply. **To stop receiving text messages text a reply to us with the word STOP.** We may confirm your opt out by text message. If you subscribe to multiple types of text messages from us, we may unsubscribe you from the service that most recently sent you a message or respond to your STOP message by texting you a request to identify services you wish to stop. Please note, that by withdrawing your consent, some of the functions provided by the Platform may no longer be available to you. Keep in mind that if you stop receiving text messages from us you may not receive important and helpful information and reminders about your services.

Healiom or your Provider may record (audio and video) all or part of your interaction with us or them ("**Recordings**"). Such Recordings are used for quality assurance and training purposes, to better deliver to you the products and services, and to help us improve the Platform. We will keep such Recordings confidential, and we will not publicly display such recordings unless legally required to do so, such as if subject to a court order. By accessing and using our Platform, you agree and consent to such Recordings for the purposes and uses set forth in these Terms of Use and as otherwise set forth in the Privacy Policy.

## **20. CAN-SPAM ACT AND TELEPHONE CONSUMER PROTECTION ACT COMPLIANCE**

Healiom, Medical Group, and your Provider are committed to being compliant with the Controlling the Assault of Non-Solicited Pornography and Marketing Act ("**CAN-SPAM Act**") and the Telephone Consumer Protection Act ("**TCPA**"). You consent to receive text messages from us as set forth in the above section, [Consent to Receive Calls, Text Messages, and Audio and/or Video Recording](#). E-mails, newsletters, and text messages received from us are intended to fully comply with the CAN-SPAM ACT and the TCPA. In the event you receive an e-mail or text message from us which you do not believe is fully compliant with the CAN-SPAM Act or the TCPA, please [Contact Us](#).

## **21. ELECTRONIC COMMUNICATIONS**

When you use the Platform, or send e-mails, messages, and other communications from your desktop or mobile device to us, you are communicating with us electronically. You consent to receive communications from us electronically. You agree that (a) all agreements and consents can be signed electronically and (b) all notices, disclosures, and other communications that we provide to you electronically satisfy any legal requirement that such notices and other communications be in writing. Healiom, Medical Group, and your Provider may contact you by telephone, mail, or e-mail to verify your information. Healiom, Medical Group, and your Provider may request further information from you and you agree to provide such further information to ensure that you have not fraudulently used the Platform. If you do not provide this information in the manner requested within 14 days of the request, we reserve the right to suspend, discontinue, or deny your access to and use of our Platform until you provide the information to us as requested.

## **22. EXTERNAL SERVICES**

The Platform may enable access to Healiom's and/or third-party services and websites, including social media sites (collectively and individually, "**External Services**"). You agree to



use the External Services at your sole risk. We are not responsible for examining or evaluating the content or accuracy of any third-party External Services, and shall not be liable for any such third-party External Services. Data displayed by the Platform or External Service, including but not limited to financial, medical, and location information, is for general informational purposes only and is not guaranteed by Healiom or its agents. You will not use the External Services in any manner that is inconsistent with the terms of these Terms of Use or that infringes the intellectual property rights of Healiom or any third party. You agree not to use the External Services to harass, abuse, stalk, threaten, or defame any person or entity, and that we are not responsible for any such use. External Services may not be available in all languages or in your Home Country, and may not be appropriate or available for use in any particular location. To the extent you choose to use such External Services, you are solely responsible for compliance with any applicable laws. We reserve the right to change, suspend, remove, disable or impose access restrictions or limits on any External Services at any time without notice or liability to you.

### **23. SUPPLEMENTAL TERMS APPLICABLE TO PROVIDERS**

These supplemental terms apply to Triage Specialist and Providers, such as the Treating Specialist, in addition to the other provisions of these Terms of Use. In the event of a conflict between the supplemental terms and any other terms herein, the supplemental terms shall prevail.

To be a healthcare provider, Treating Specialists, or Triage Specialist using the Platform (for purposes of this Section, “**Provider**” or “**you**”), you must be a healthcare professional contracted or employed by the Medical Group, and must agree to comply with all laws, medical board rules, and other rules and regulations applicable to you as a Provider or otherwise. Your relationship with the Healiom users (including, but not limited to, your Medical Group patients) is directly between you and the patient. The patient will never have a physician-patient relationship with Healiom. Healiom does not practice medicine and offers no medical services. As set forth more fully below, Provider and Medical Group are solely responsible for all agreements, consents, notices, and other interactions with patients and other consumers. Without limiting the generality of the foregoing, Provider, Medical Group, and Healiom are each responsible for all billings and collections from patients and other consumers, and Healiom shall have no liability whatsoever to Provider with respect to any amounts owed by any patient or other consumer to Provider.

We do not provide any medical advice, legal advice, or representations in any way regarding any legal or medical issues associated with Provider, goods, or services offered by Provider, including but not limited to any compliance obligations or steps necessary to comply with any state or federal laws and regulations. Provider should seek legal counsel regarding any legal and compliance issues and should not rely on any materials or content associated with the Platform in determining Provider’s compliance obligations under the law. Provider and Healiom agree that Healiom is not providing to customers, patients, or anyone else, medical advice, or legal advice. **THE PLATFORM IS NOT MEANT TO SUBSTITUTE OR MODIFY YOUR PROFESSIONAL JUDGMENT IN ANY WAY.**

Provider will use the Platform only in accordance with applicable standards of good medical practice. While software products such as the Platform can facilitate and improve the quality of service that Provider can offer patients, many factors, including but not limited to the provider/patient relationship, can affect a patient’s outcome, and with intricate and

interdependent technologies and complex decision-making, it is often difficult or impossible to accurately determine what the factors were and in what proportion they affected an outcome. Provider will advise patients, when reasonably necessary, that Services provided through the Platform may not be a complete or adequate substitute for in-person assessments by the Provider. Provider and Medical Group shall be solely responsible for its use of the Platform and the provision of medical services to Provider's patients. In this regard, Provider releases Healiom and waives any and all potential claims against Healiom as a result of Provider's use of the Platform and the provision of Services to Provider's patients.

As a result of the complexities and uncertainties inherent in the patient care process, Provider agrees to defend, indemnify, and hold Healiom harmless from any claim by or on behalf of any patient of Provider, or by or on behalf of any other third party or person claiming damage by virtue of a familial or financial relationship with such a patient, which is brought against Healiom, regardless of the cause if such claim arises for any reason whatsoever, out of Provider's use or operation of the Platform. To the extent applicable, Provider will obtain Healiom's prior written consent to any settlement or judgment in which Provider agrees to any finding of fault of Healiom or defect in the Platform. Healiom will promptly notify Provider in writing of any claim subject to this indemnification, promptly provide Provider with the information reasonably required for the defense of the same, and grant to Provider exclusive control over its defense and settlement.

If you submit, upload, transmit, or post any consents, notices, advice, recommendations, comments, files, videos, images, or other materials to us or our Platform ("**Provider Content**") or provide any Provider Content to patients or other consumers, you agree not to provide any Provider Content that (a) is defamatory, abusive, libelous, unlawful, obscene, threatening, harassing, fraudulent, pornographic, or harmful, or that could encourage criminal or unethical behavior, (b) violates or infringes the privacy, copyright, trademark, trade dress, trade secrets, or intellectual property rights of any person or entity, or (c) contains or transmits a virus or any other harmful component. Provider is solely responsible for obtaining all necessary agreements and consents from, and providing all required notices to, patients and other consumers. You agree not to contact other users through unsolicited e-mails, telephone calls, mailings, or any other method of communication. You represent and warrant to Healiom that you have the legal right and authorization to upload all Provider Content to the Platform. Healiom shall have a royalty-free, irrevocable, transferable right, and license to use the Provider Content however Healiom desires, including without limitation, to copy, modify, delete in its entirety, adapt, publish, translate, create derivative works from or sell or distribute such Provider Content or incorporate such Provider Content into any form, medium, or technology throughout the world. Healiom is and shall be under no obligation: (i) to maintain any Provider Content in confidence; (ii) to pay to you any compensation for any Provider Content; or (iii) to respond to any Provider Content.

Healiom does not regularly review Provider Content, but does reserve the right (but not the obligation) to monitor and edit or remove any Provider Content submitted to the Platform. You grant Healiom the right to use the name that you submit in connection with any Provider Content. You agree not to use a false e-mail address, impersonate any person or entity, or otherwise mislead as to the origin of any Provider Content. You are and shall remain solely responsible for the content of any Provider Content you post to the Platform or provide to patients or other consumers. Healiom and its affiliates take no responsibility and assume no liability for any Provider Content submitted by you or any third party.

## 24. NO THIRD PARTY RIGHTS

Unless expressly stated in these Terms of Use, nothing herein is intended to confer any rights, obligations, duties, or remedies, on any person other than you, Healiom, Medical Group, and their affiliates. Nothing in the Terms of Use is intended to relieve or discharge the obligation or liability of any third persons to you, Healiom, Medical Group, and its affiliates, nor shall any provision give any third parties any right of subrogation or action over against you, Healiom, Medical Group, and its affiliates. The Platform is only provided for your benefit and may not be relied on by any third party.

## 25. DISPUTE RESOLUTION; ARBITRATION AGREEMENT

We will work in good faith to resolve any issue you have with the Platform, including Products and Services ordered or purchased through the Platform, if you bring that issue to the attention of our customer service department. However, we realize that there may be rare cases where we may not be able to resolve an issue to a customer's satisfaction.

You and Healiom agree that any dispute, claim, or controversy arising out of or relating in any way to these Terms of Use or your use of the Platform, including Products and Services ordered or purchased through the Platform, shall be determined by binding arbitration instead of in courts of general jurisdiction. Arbitration is more informal than bringing a lawsuit in court. Arbitration uses a neutral arbitrator instead of a judge or jury, and is subject to very limited review by courts. Arbitration allows for more limited discovery than in court, however, we agree to cooperate with each other to agree to reasonable discovery in light of the issues involved and amount of the claim. Arbitrators can award the same damages and relief that a court can award, but in so doing, the arbitrator shall apply substantive law regarding damages as if the matter had been brought in court, including without limitation, the law on punitive damages as applied by the United States Supreme Court. You agree that, by agreeing to these Terms of Use, the U.S. Federal Arbitration Act governs the interpretation and enforcement of this provision, and that you and Healiom are each waiving the right to a trial by jury or to participate in a class action. This arbitration provision shall survive termination of these Terms of Use and any other contractual relationship between you and Healiom.

If you desire to assert a claim against Healiom, and you therefore elect to seek arbitration, you must first send to Healiom, by certified mail, a written notice of your claim ("**Notice**"). The Notice to Healiom should be addressed to: Healiom, Inc., Attn: LEGAL NOTICE, 1764 Hamlet St., San Mateo, CA 94403 ("**Notice Address**"). If Healiom desires to assert a claim against you and therefore elects to seek arbitration, it will send, by certified mail, a written Notice to the most recent address we have on file or otherwise in our records for you. A Notice, whether sent by you or by Healiom, must (a) describe the nature and basis of the claim or dispute; and (b) set forth the specific relief sought ("**Demand**"). If Healiom and you do not reach an agreement to resolve the claim within 30 days after the Notice is received, you or Healiom may commence an arbitration proceeding or file a claim in small claims court. During the arbitration, the amount of any settlement offer made by Healiom or you shall not be disclosed to the arbitrator. You may download or copy a form Notice and a form to initiate arbitration from the American Arbitration Association at [www.adr.org](http://www.adr.org). If you are required to pay a filing fee, after Healiom receives notice at the Notice Address that you have commenced arbitration, it will promptly reimburse you for your payment of the filing fee, unless your claim is for more than US \$10,000. The arbitration will be governed by the Commercial Arbitration Rules and the Supplementary Procedures for Consumer Related Disputes (collectively, "**AAA Rules**") of the American

Arbitration Association ("**AAA**"), as modified by these Terms of Use, and will be administered by the AAA. The AAA Rules and Forms are available online at [www.adr.org](http://www.adr.org), by calling the AAA at 1-800-778-7879, or by requesting them from us by writing to us at the Notice Address. The arbitrator is bound by the terms of these Terms of Use. All issues are for the arbitrator to decide, including issues relating to the scope and enforceability of these Terms of Use, including this arbitration agreement. Unless Healiom and you agree otherwise, any arbitration hearings will take place in the county (or parish) of your billing address. (If you reside outside of the United States, any arbitration hearings will take place in your country of residence at a location reasonably convenient to you, but will remain subject to the AAA Rules including the AAA rules regarding the selection of an arbitrator). If your claim is for US \$10,000 or less, we agree that you may choose whether the arbitration will be conducted solely on the basis of documents submitted to the arbitrator, through a telephonic hearing, or by an in-person hearing as established by the AAA Rules. If your claim exceeds US \$10,000, the right to a hearing will be determined by the AAA Rules. Regardless of the manner in which the arbitration is conducted, the arbitrator shall issue a reasoned written decision sufficient to explain the essential findings and conclusions on which the award is based. If the arbitrator issues you an award that is greater than the value of Healiom's last written settlement offer made before an arbitrator was selected (or if Healiom did not make a settlement offer before an arbitrator was selected), then Healiom will pay you the amount of the award or US \$1,000, whichever is greater. Except as expressly set forth herein, the payment of all filing, administration and arbitrator fees will be governed by the AAA Rules. Each party shall pay for its own costs and attorneys' fees, if any. However, if any party prevails on a statutory claim that affords the prevailing party attorneys' fees, or if there is a written agreement providing for payment or recovery attorneys' fees, the arbitrator may award reasonable fees to the prevailing party, under the standards for fee shifting provided by law.

YOU AND HEALIOM AGREE THAT EACH MAY BRING CLAIMS AGAINST THE OTHER ONLY IN YOUR OR ITS INDIVIDUAL CAPACITY AND NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED CLASS OR REPRESENTATIVE PROCEEDING. Further, unless both you and Healiom agree otherwise, the arbitrator may not consolidate more than one person's claims with your claims, and may not otherwise preside over any form of a representative or class proceeding. The arbitrator may award declaratory or injunctive relief only in favor of the individual party seeking relief and only to the extent necessary to provide relief warranted by that party's individual claim.

If this Agreement to Arbitrate provision is found to be unenforceable, then (a) the entirety of this arbitration provision shall be null and void, but the remaining provisions of these Terms of Use shall remain in full force and effect; and (b) exclusive jurisdiction and venue for any claims will be in state or federal courts located in and for San Mateo County, California. Both Healiom and you agree to waive any and all rights to a jury trial in the event this agreement to arbitrate is found to be unenforceable.

## **26. INDEMNIFICATION**

You agree to defend, indemnify, and hold Healiom and any affiliates harmless from and against any and all rights, demands, losses, liabilities, damages, claims, causes of action, actions, and suits (no matter whether at law or equity), fees, costs, and attorney's fees of any kind whatsoever arising directly or indirectly out of or in connection with: (i) your use or misuse of the Platform, Products, Services, or any information posted on the Platform; (ii) your breach of the Terms of Use or Privacy Policy; (iii) the content or subject matter of any information you

provide to Healiom, Medical Group, your Provider, or a customer service agent; or (iv) any negligent or wrongful act or omission by you in your use or misuse of the Platform, Products, Services, or any information on the Platform, including without limitation, infringement of third party intellectual property rights, privacy rights, or negligent or wrongful conduct.

## **27. DISCLAIMER OF WARRANTIES**

HEALIOM DOES NOT WARRANT THAT ACCESS TO OR USE OF THE PLATFORM WILL BE UNINTERRUPTED OR ERROR-FREE OR THAT DEFECTS IN THE PLATFORM WILL BE CORRECTED. THE PLATFORM, INCLUDING ANY CONTENT OR INFORMATION CONTAINED WITHIN IT OR ANY SERVICE RELATED TO THE PLATFORM, IS PROVIDED "AS IS," WITH ALL FAULTS, WITH NO REPRESENTATIONS OR WARRANTIES OF ANY KIND, EITHER EXPRESSED OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, QUALITY OF INFORMATION, QUIET ENJOYMENT, AND TITLE/NON-INFRINGEMENT. HEALIOM DOES NOT WARRANT THE ACCURACY, COMPLETENESS, OR TIMELINESS OF THE INFORMATION OBTAINED THROUGH THE PLATFORM.

YOU ASSUME TOTAL RESPONSIBILITY AND RISK FOR YOUR USE OF THE PLATFORM, PLATFORM-RELATED SERVICES, SERVICES, AND LINKED WEBSITES. HEALIOM DOES NOT WARRANT THAT FILES AVAILABLE FOR DOWNLOAD WILL BE FREE OF VIRUSES, WORMS, TROJAN HORSES, OR OTHER DESTRUCTIVE PROGRAMMING. YOU ARE RESPONSIBLE FOR IMPLEMENTING PROCEDURES SUFFICIENT TO SATISFY YOUR NEEDS FOR DATA BACK UP AND SECURITY.

WARRANTIES RELATING TO PRODUCTS OR SERVICES OFFERED, SOLD, AND DISTRIBUTED BY HEALIOM ARE SUBJECT TO SEPARATE WARRANTY TERMS AND CONDITIONS, IF ANY, PROVIDED WITH OR IN CONNECTION WITH THE APPLICABLE PRODUCTS OR SERVICES.

## **28. LIMITATION OF LIABILITY REGARDING USE OF PLATFORM AND SERVICES**

HEALIOM AND ANY THIRD PARTIES MENTIONED ON THIS PLATFORM ARE NEITHER RESPONSIBLE NOR LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, EXEMPLARY, PUNITIVE, OR OTHER DAMAGES WHATSOEVER (INCLUDING, WITHOUT LIMITATION, THOSE RESULTING FROM LOST PROFITS, LOST DATA, OR BUSINESS INTERRUPTION) ARISING OUT OF OR RELATING IN ANY WAY TO THE PLATFORM, PLATFORM-RELATED SERVICES, SERVICE, CONTENT, OR INFORMATION CONTAINED WITHIN THE PLATFORM, AND/OR ANY LINKED WEBSITE, WHETHER BASED ON WARRANTY, CONTRACT, TORT, OR ANY OTHER LEGAL THEORY AND WHETHER OR NOT ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. YOUR SOLE REMEDY FOR DISSATISFACTION WITH THE PLATFORM, PLATFORM-RELATED SERVICES, SERVICES, AND/OR LINKED WEBSITES IS TO STOP USING THE PLATFORM AND/OR THOSE SERVICES. TO THE EXTENT ANY ASPECTS OF THE FOREGOING LIMITATIONS OF LIABILITY ARE NOT ENFORCEABLE, THE MAXIMUM AGGREGATE LIABILITY OF HEALIOM TO YOU WITH RESPECT TO YOUR USE OF THE PLATFORM AND SERVICES IS \$500 (FIVE HUNDRED DOLLARS).

## **29. FORCE MAJEURE**

We will not be deemed to be in breach of these terms or liable or deemed to have defaulted for any breach of these Terms of Use or our Privacy Policy for any failure or delay in fulfilling or

performing any term of these Terms of Use, when and to the extent such failure or delay is caused by or results from acts beyond our reasonable control, including, without limitation, the following force majeure events (“Force Majeure Event(s)”): (a) acts of God; (b) flood, fire, earthquake, explosion, pandemic, or epidemic; (c) war, invasion, hostilities (whether war is declared or not), terrorist threats or acts, riot or other civil unrest; (d) government order, law, or actions; (e) embargoes or blockades in effect on or after the date of this Agreement; (f) national or regional emergency; and (g) other events beyond the reasonable control of Healiom. We will do our best to communicate with you and to provide notice within thirty (30) days of the Force Majeure Event, stating the period of time the occurrence is expected to continue. We shall use diligent efforts to end the failure or delay and ensure the effects of such Force Majeure Event are minimized. Healiom shall resume the performance of its obligations as soon as reasonably practicable after the removal of the cause.

### **30. REVISIONS; GENERAL**

Healiom reserves the right, in its sole discretion, to terminate your access to all or part of the Platform, with or without cause, and with or without notice. In the event that any of the Terms of Use are held by a court or other tribunal of competent jurisdiction to be unenforceable, such provisions shall be limited or eliminated to the minimum extent necessary so that these Terms of Use shall otherwise remain in full force and effect. These Terms of Use constitute the entire agreement between Healiom and you pertaining to the subject matter hereof. In its sole discretion, Healiom may from time-to-time revise these Terms of Use by updating this posting. You should, therefore, periodically visit this page to review the current Terms of Use, so you are aware of any such revisions to which you are bound. Your continued use of the Platform after revisions to these Terms of Use shall constitute your agreement to the revised Terms of Use. Certain provisions of these Terms of Use may be superseded by expressly designated legal notices or terms located on particular pages within the Platform.

### **31. CONTACT Us**

**Healiom, Inc.**  
1764 Hamlet St.  
San Mateo, CA 94403  
**Telephone:**  
**E-mail:** [Privacy@Healiom.com](mailto:Privacy@Healiom.com)