

## TERMS OF USE

Empericus, LLC. (“Company,” “we,” “us” or “our”) maintains these Terms of Service (these “Terms”) that describe the terms and conditions applicable to our services accessible through our website (the “Site”) or any web or mobile-based applications (the “Service”). Your use of the Service is subject at all times to these Terms and our privacy policy (“Privacy Policy”). Any inconsistencies between these Terms and the Privacy Policy shall be resolved by the Company in its sole and absolute discretion.

PLEASE READ THESE TERMS CAREFULLY BEFORE ACCESSING, DOWNLOADING OR USING THE SERVICE. BY ACCESSING, DOWNLOADING OR USING THE SERVICE, YOU WILL BE BOUND BY THESE TERMS.

BY SELECTING THE “YES” OR “DOWNLOAD” OR “SUBSCRIBE” BUTTON, YOU CONSENT TO BE BOUND BY ALL OF THESE TERMS. IF YOU ARE NOT WILLING TO BE BOUND BY THESE TERMS AND YOU DO NOT AGREE TO ALL OF THE TERMS AND CONDITIONS OF THESE TERMS, THEN SELECT THE “NO” BUTTON OR DO NOT ACCESS THE SERVICE.

YOU MAY NOT USE THE SERVICE IF: (A) YOU CANNOT ENTER INTO A BINDING CONTRACT WITH COMPANY; (B) YOU ARE NOT ALLOWED TO RECEIVE PRODUCTS, INCLUDING SERVICES OR SOFTWARE, FROM THE UNITED STATES; OR (C) YOU HAVE PREVIOUSLY BEEN BANNED FROM USING THE SERVICE.

### 1. THE SERVICE

(a) General Description. The Service facilitates the acquisition, retention, use, processing, and analysis of your personal health information, including health, wellness, exercise, and performance data for your benefit and/or the benefit of any applicable Sponsor (defined below). We display your User Content (defined below) in a proprietary platform for purposes of enabling you and/or an applicable Sponsor to assess your general health and readiness status. As part of using the Services, you will consent to us acquiring your User Content from a variety of sources, including but not limited to your healthcare clinicians and other entities that may be subject to applicable regulatory privacy requirements, which may require you to execute or present a specific consent or authorization.

(b) No Medical Advice. The Site and Service do not include the provision of medical advice by the Company. The Company does not offer medical advice or diagnoses or engage in the practice of medicine. Information and materials provided through the Service are solely for informational purposes only and are not intended to be, and do not constitute, a substitute for professional medical advice, diagnosis or treatment. You should seek the advice of your physician or other qualified medical professional if you have any questions or concerns regarding your medical condition or the use of any medication or medical device.

(c) Scope of Relationship. Any authorization that you provide to the Company to access, retrieve, collect, or store your User Content is performed on your behalf. If you authorize the Company to request information from any of your healthcare providers or anyone else subject to the Health Insurance Portability and Accountability Act of 1996 and its implementing regulations (“HIPAA”), such contact is for your benefit and will not result in a relationship between the Company and such provider or entity that is subject to HIPAA.

(d) License to Use Service. Subject to the terms and conditions of these Terms and the Privacy Policy, the Company grants to you a limited, non-exclusive, non-transferable, non-sublicensable and revocable right and license to access and use the Service for your personal and non-commercial purposes. The Company may terminate this license without notice in the event you fail to comply with these Terms or the Privacy Policy. Upon termination of the license, you must immediately cease accessing and using the Service and Empericus will terminate your account.

(e) Acceptance of These Terms. You affirm that you are: (i) at least 18 years of age or older, (ii) an emancipated minor, (iii) possess the consent of a legal parent and/or guardian, or (iv) creating this account for the benefit of a minor for whom you are the legal parent and/or guardian of such minor. By accepting these terms, you affirm that you are fully able and competent to enter into and abide by all of the terms and conditions set forth in these Terms. If a parent or legal guardian and a minor use the Service, then both the parent or legal guardian and the minor shall be bound by these Terms and are responsible for their use of the Service.

(f) Limitations. The license granted to you is subject to the following limitations. You shall not permit any other person to:

(i) in whole or in part, (1) modify, translate or create any derivative work of the Service, including any Company Content (defined below) or (2) copy, photocopy, reproduce, translate, disassemble, reverse engineer, decompile, or otherwise attempt to derive source code, underlying ideas, algorithms, structure, or organization of the Service;

(ii) modify, alter or remove any copyright, patent, confidentiality, trademark and other notices, labels or legends displayed in the Service, including in any Company Content;

(iii) sell, grant a security interest in or transfer reproductions of any Company Content or any part thereof for any purposes in any way not expressly authorized herein;

(iv) assign, rent, lease, distribute or license any Company Content or any part of the Service to others; or

(v) exploit the Service, including any Company Content or any of its parts, for any commercial purpose.

## **2. IP OWNERSHIP**

(a) Company Content. The Company shall retain exclusive right, title and interest (including all intellectual property rights) in and to all materials that are part of the Service (including past, present and future versions) (excluding User Content), including, without limitation: scientific data, calculations, technical data, notes, drawings, know-how, works of authorship, firmware, software, ideas, improvements, inventions, materials, works or products conceived, created, written, or reduced to practice, art, icons, graphics, layout, text, images, audio and/or video, designs, features, advertisements, logos, domain names, trade names and marks, and service marks, any and all copyrightable material, the “look and feel”, the compilation, assembly and arrangement of the materials of the Service, and all other materials or content made available in the Service (collectively, “Company Content”) and any such Company Content is protected from unauthorized use, copying and dissemination by applicable copyright, trademark, patent, publicity and other laws, rules, regulations and international treaties.

(b) Trademarks. All words and logos in the Site and Service marked by the <sup>TM</sup> or ® symbols are trademarks and service marks of the Company. All rights are reserved. All other trademarks and

service marks appearing in the Service are the property of their respective owners. All rights are reserved. Use of any of our trademarks, service marks or names as “metatags” for any purpose other than as expressly authorized in these Terms is strictly prohibited.

(c) No Additional Rights. Only those licenses expressly set forth in these Terms are granted. No other licenses are granted under these Terms, whether by implication, estoppel, course of conduct, or otherwise. Nothing in these Terms is intended to transfer any of the right, title and interest (including all intellectual property rights) from the Company and/or its licensors to you or any third party. If you are ever inadvertently or erroneously held or deemed to be the owner of any such rights, you agree to assign and hereby irrevocably assign to the Company or its licensors, as the case may be, all such rights as of the effective date of these Terms, and agree to execute all documents to implement and confirm the letter and intent of the foregoing.

(d) User Content. All healthcare data, wearable data, wellness data, performance data, exercise data, information, documentation or other materials that you post, store or place or authorize to be posted, stored or placed in the Service (the “User Content”) shall be your sole and exclusive property.

### **3. ACCOUNT, FEES, BILLING METHODS AND TERMINATION**

(a) Accounts. By completing the registration process, you may establish a user account (“Account”), obtain a user ID and become a registered member (“User”), and access the Service. To create an Account, you must provide such information as may be requested during the registration process. You must provide truthful and accurate information during the Account registration process. As part of the Service, you will receive email and other communications from us relating to your use of the Service. By disclosing your email and other contact information during the registration process, you agree that we may send you such communications. You will no longer receive such communications once your Account is terminated or you opt-out of receiving such communications in accordance with the procedures set forth in the Privacy Policy.

You are solely responsible for all activity on your Account and for the security of your personal computer and mobile device. You should not reveal your Account password to other users or permit others to access your Account. All acts performed using your Account (including User Data and User Content) shall be deemed to be your acts. You shall promptly notify the Company of any changes to your Account information or if such information has been improperly disclosed to a third party. You shall solely be responsible for any liability that arises from any improper third party disclosure and/or use (including unauthorized third party use) of your Account (including User Content). If there is a risk of your Account (including User Content) being improperly used by a third party, you shall promptly take all reasonable measures to limit such use, including, without limitation by changing your password and notifying the Company. Under no circumstances shall the Company be liable to you for any loss you incur, including from the loss of your User Content, from your loss of any Account information (including user name, user ID or password), unauthorized access or use of your Account and/or from harmful or malicious code.

(b) Account Access. If your Account is created pursuant to a relationship with a team, association, organization or other entity (“Sponsor”) and the Sponsor pays the subscription fees as set forth below, then you shall be required to, and we will grant, access to your Account to such Sponsor in accordance with any agreement, acknowledgement, or other arrangement between you and such Sponsor as communicated to the Company by either you or the applicable Sponsor.

(c) Fees. All access to and use of the Service requires payment of the then applicable subscription fees. The Company, in its sole and absolute discretion, may, from time to time, modify, amend, or supplement the terms and billing methods relating to fees and charges, and post those changes in the Service. Such modifications, amendments or supplements shall be effective immediately upon posting in the Service. If any change is unacceptable to you, your sole remedy is to cancel your Account and cease using the Service. If applicable, all fees and charges are non-refundable unless expressly provide otherwise in these Terms or pursuant to applicable law. The Company will not refund or issue any written receipts for any fees or charges you pay in connection with the Service.

You must procure, provide and bear the expense for all equipment, software and other technologies and data access plans necessary to access the Service, including, a personal computer or mobile device suitable to connect with the Service and an internet connection.

(c) Termination. You have the right to terminate your Account and/or cease accessing and using the Service at any time by following the procedures in the Service. You understand and agree that unless otherwise expressly provided for in these Terms, terminating your Account and ceasing access and use of the Service are your sole right and remedy with respect to any dispute.

Without limiting any other remedies, we may suspend or terminate your Account and your access to and use of the Service (or any portion thereof, including any User Data and User Content) at any time if you are, or we suspect that you are, failing to comply with these Terms or the Privacy Policy, with or without notice to you.

We reserve the right to stop offering and/or supporting the Service at any time for any valid commercial reason, at which time your license to access and use the Service will automatically be terminated without further action.

Upon termination of your Account, your User Content will automatically be transmitted back to you, in a secure manner, to the email address identified in your Account within thirty (30) days of such termination. We reserve the right to delete all of your User Content at any point that is more than thirty (30) days after termination of your Account. We reserve the right to determine the most appropriate format of transmitting your User Content to you.

#### **4. CONDUCT**

You agree that you will be personally responsible for your access and use of the Service and for all of your User Content and online activity in connection with the Service, and that you will indemnify and hold harmless the Company, its licensors, suppliers, partners, affiliates and their respective employees, officers, directors and agents (collectively, "Company Affiliates") from all claims for liabilities, losses and expenses, including reasonable attorneys' fees and costs, from third parties arising from such use, User Content and activity. Specifically, you will comply with these Terms, all applicable laws, rules and regulations governing the disclosure and use of third party property, including, without limitation, any and all intellectual property rights. Moreover, you agree not to engage in any of the following:

- (a) Post, transmit, promote, distribute or provide links to illegal content.
- (b) Harass, threaten, abuse, disparage, libel, slander, embarrass, or engage in any other disruptive behavior involving another user or any Company Affiliate.

- (c) Transmit or facilitate distribution of content that is harmful, abusive, racially or ethnically offensive, vulgar, sexually explicit, defamatory, infringing, invasive of personal privacy or publicity rights, or in a reasonable person's view, objectionable.
- (d) Infringe upon the intellectual property rights of the Company or any third party.
- (e) Alter, delete or cancel any other user's profile information or User Content.
- (f) Disrupt the flow of chat in chat rooms, forum or other communication areas within the Service with vulgar language, abusiveness, hitting the return key repeatedly or inputting large images so the screen goes by too fast to read, use of excessive shouting, using ALL CAPS in an attempt to disturb other users, "spamming" or flooding or posting repetitive text.
- (g) Impersonate another person, indicate that you are a Company Affiliate, or attempt to mislead users by indicating that you represent Company or any Company Affiliate.
- (h) Use any robot, spider, scraper, or other automated means (other than in accordance with these Terms and any Additional Terms) to access the Service for any purpose without our express written permission or bypass measures we may use to prevent or restrict access to the Service.
- (i) Attempt to get a user ID, password, or other user information, or any other private information from a user. Company employees will NEVER ask for your password. DO NOT give your password, secret answers, or billing information out to anyone.
- (j) Upload any content, including User Content that you do not own or have the right to license to the Company in accordance with these Terms.
- (k) Engage in or promote or encourage any illegal or fraudulent activity including hacking, cracking or distribution of counterfeit software, or identity theft.
- (l) Upload User Content or display URLs that contain harmful or malicious code or corrupted data.
- (m) Post messages for any purpose other than personal communication, including, without limitation, advertising, promotional materials, chain letters, direct marketing, multi-level marketing programs and pyramid schemes.
- (n) Make any commercial use of the Service, including using the Service as an Internet dating service website, use at a cyber café or any other location-based site.
- (o) Improperly use support or complaint buttons or make false reports to Company.
- (p) Use or distribute "auto" software programs, "macro" software programs or other "cheat utility" software program or applications.
- (q) Modify, reproduce, distribute, delete or create derivative works of the Service, Company Content or any other users' User Content displayed therein, or any component thereof.

- (r) Solicit or attempt to solicit, and post, distribute or communicate any user's personal information.
- (s) Interfere with, hack into or decipher any transmissions to or from the servers running the Service.
- (t) Exploit any bug in the Service or in any Company product to exploit it for commercial purposes. You agree not to communicate the existence of any such bug (either directly or through the public posting) to any other user or third party.
- (u) Do anything that interferes with the ability of other users to enjoy the Service or that materially increases the expense or difficulty of Company in maintaining the Service for the enjoyment of all its users.
- (v) Interfere or attempt to interfere with the proper functioning of the Service or connect to or use the Service in any way not expressly permitted by these Terms, including, without limitation, gain unauthorized access to any Company Content and other users' User Content.
- (w) Use the Service in violation of these Terms, the Privacy Policy, or any applicable laws, rules or regulations, or do anything that promotes the violation of any applicable laws, rules or regulations.
- (x) Engage in any other conduct which the Company, in its sole and absolute discretion, deems to violate these Terms.

If you encounter another user who is violating any of the items described in the Conduct list above, please email us at [userconduct@empericus.com](mailto:userconduct@empericus.com).

## **5. THIRD PARTY CONNECTIONS AND SOURCES**

(a) Third Party Connections. You may use the Service to connect to or with a third party, such as Sponsor, and grant such third party the ability to: (i) access all or some of the User Content that you post into the Service, (ii) send you communications or other messages, or (iii) other benefits that may be made available through the Service from time to time. If you enable such a connection, you are solely responsible for all User Content that you enable a third party to access and acknowledge that Company cannot and does not oversee how the third party uses your User Content. You are solely responsible for any act or omission that you take in response to any interaction with a third party as a result of a connection that you initiate or authorize. Notwithstanding the foregoing to the contrary, you agree to authorize a Sponsor to access all of your User Content that is required pursuant to any agreement or contract directly between you and such Sponsor.

(b) Third Party Availability. You understand that it may not always be possible to obtain your data from a third party source if such third party denies, terminates, or otherwise blocks access to your data held by such third party. Notwithstanding, any of your data accessed from such third party prior to any denial, termination, or other blocking will remain accessible through the Service. Examples of third party sources include, but are not limited to: your healthcare clinicians, electronic medical records, clinical support systems, wearable device companies, and any other source where any of your health, wellness, performance, exercise, or other information could be stored or generated.

(c) Third Party Relationships. Your relationship with any third party is governed by the particular agreement, arrangement or other document between you and such third party. The Company is not a party to or a third party beneficiary of such agreement, arrangement or other document. Further, you represent and warrant to the Company that you are authorized and/or permitted to grant the Company access to services or data created by such a third party for the purposes set forth in these Terms.

(d) Accuracy. The Company does not assume responsibility for the timeliness, accuracy, completeness or quality of any data received from a third party. It is your responsibility to ensure that the Company receives or can access the most up-to-date iteration of data held by such third party.

## **6. CHANGES TO TERMS**

The Company may, from time to time, modify, amend, or supplement these Terms and post those changes on the Terms page. Such modifications or supplements shall be effective immediately upon posting in the Service. You are responsible for periodically checking the Service for changes to the Terms. You can determine when the Terms were last revised by referring to the “Effective Date” legend at the bottom of these Terms. If you do not agree to be bound by (or cannot comply with) the Terms as modified or supplemented, you should stop using the Site and Service. Your continued access and use of the Site and Service constitutes your agreement to be bound by the modified Terms.

## **7. DISCLAIMER OF WARRANTIES**

YOU EXPRESSLY AGREE THAT THE USE OF THE SERVICE AND INTERNET IS AT YOUR SOLE RISK. THE SERVICE IS PROVIDED ON AN “AS IS” AND “AS AVAILABLE” BASIS FOR YOUR USE, WITHOUT WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY WARRANTY OF MERCHANTABILITY, SATISFACTORY QUALITY, NON-INFRINGEMENT OR FITNESS FOR A PARTICULAR PURPOSE, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW. THE COMPANY PROVIDES THE SERVICE ON A COMMERCIALY REASONABLE BASIS AND DOES NOT GUARANTEE THAT YOU WILL BE ABLE TO ACCESS OR USE THE SERVICE AT TIMES OR LOCATIONS OF YOUR CHOOSING, OR THAT THE COMPANY WILL HAVE ADEQUATE CAPACITY FOR THE SERVICE AS A WHOLE OR IN ANY SPECIFIC GEOGRAPHIC AREA. YOUR ACCESS AND USE OF THE SERVICE IS AT YOUR OWN DISCRETION AND RISK AND YOU ARE SOLELY RESPONSIBLE FOR ANY DAMAGE TO YOUR COMPUTER OR MOBILE DEVICE, LOSS OF DATA OR ANY OTHER DAMAGES OR LOSSES THAT RESULTS (DIRECTLY OR INDIRECTLY) FROM SUCH ACCESS OR USE. SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF IMPLIED WARRANTIES OR LIMITATIONS ON APPLICABLE STATUTORY RIGHTS, SO THE ABOVE EXCLUSION AND LIMITATIONS MAY NOT APPLY TO YOU.

## **8. LIMITATIONS OF LIABILITY**

TO THE EXTENT PERMITTED BY APPLICABLE LAW, YOU ACKNOWLEDGE AND AGREE THAT, IN NO CASE SHALL ANY COMPANY AFFILIATE’S LIABILITY TO YOU IN RESPECT TO ANY ACT OR FAILURE TO ACT IN RELATION TO THE SERVICE EXCEED THE HIGHER OF US\$100 OR THE AMOUNT PAID BY YOU IN CONNECTION WITH YOUR USE OF THE SERVICE. FURTHERMORE, IN NO CASE SHALL THE COMPANY AFFILIATES BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES (INCLUDING, WITHOUT LIMITATION, THOSE RESULTING FROM PERSONAL INJURY, DAMAGE TO PROPERTY, LOSS OF PROFITS, DATA, USE, GOODWILL, BUSINESS

INTERRUPTION, OR OTHER COMPARABLE LOSS) ARISING FROM YOUR ACCESS AND USE OF THE SERVICE, WHETHER BASED ON WARRANTY, PRODUCT LIABILITY, PERSONAL INJURY, CONTRACT, TORT OR ANY OTHER LEGAL THEORY AND WHETHER OR NOT THE COMPANY OR ANY COMPANY AFFILIATE HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. BECAUSE SOME JURISDICTIONS DO NOT ALLOW THE FOREGOING EXCLUSION OR THE LIMITATIONS OF LIABILITY FOR CERTAIN DAMAGES, IN SUCH JURISDICTIONS, THE COMPANY'S AND COMPANY AFFILIATES' LIABILITY SHALL BE LIMITED TO THE FULL EXTENT PERMITTED BY APPLICABLE LAW. THE COMPANY DOES NOT ENDORSE, WARRANT OR GUARANTEE ANY THIRD PARTY PRODUCT OR SERVICE OFFERED THROUGH THE SERVICE AND WILL NOT BE A PARTY TO OR IN ANY WAY BE RESPONSIBLE FOR MONITORING ANY TRANSACTION BETWEEN YOU AND THIRD-PARTY PROVIDERS OF PRODUCTS OR SERVICES. SPECIFICALLY, WE ARE NO LIABLE TO YOU FOR ANY DAMAGE CAUSED BY THE ACTIONS OF ANY MEDICAL PROFESSIONAL OR ANY OTHER THIRD PARTY.

## **9. LINKS**

For the convenience of our users, the Service may provide certain links to other applications, services and websites provided by third parties. The Company is not responsible for the content of any other applications, services or websites linked to or from the Service. If you follow any such links, you leave the Service and you do so entirely at your own risk. The Company provides links from the Service solely as a convenience to you and in no way should this be interpreted as a referral or endorsement of any content, sponsor or owner of any other applications, services and/or websites. THE COMPANY DISCLAIMS ALL WARRANTIES, RESPONSIBILITIES, LIABILITIES, CONDITIONS OR OTHER TERMS EXPRESS OR IMPLIED AS TO ANY SUCH LINKED WEBSITE, INCLUDING, WITHOUT LIMITATION, AS TO ACCURACY, OWNERSHIP, VALIDITY OR LEGALITY OF ANY CONTENT OF A LINKED APPLICATIONS, SERVICES OR WEBSITES, AND FOR ANY OF YOUR INFORMATION COLLECTED OR USED BY ANY SUCH THIRD PARTIES.

## **10. GOVERNING LAW**

The laws of the State of Delaware and the United States of America, without regard to conflicts of law provisions, will apply to all matters arising out of or in connection with the Service and your access and use thereof. By accessing and using the Service, you submit and consent to the exclusive jurisdiction of state and federal courts located in Bergen County, New Jersey with respect to any dispute or cause of action (whether contractual or non-contractual) arising out of or in connection with these Terms, the Privacy Policy, and/or your access and use of the Service. In any action or proceeding to enforce the rights under these Terms, the prevailing party shall be entitled to recover their reasonable attorneys' fees and costs.

## **11. INJUNCTIVE RELIEF**

You acknowledge that the rights granted and obligations made hereunder to the Company are of a unique and irreplaceable nature, the loss of which shall irreparably harm the Company and which cannot be replaced by monetary damages alone so that the Company shall be entitled to injunctive or other equitable relief (without the obligations of posting any bond or surety) in the event of any breach or anticipatory breach by you. To the fullest extent permitted under applicable law, you irrevocably waive all rights to seek injunctive or other equitable relief and agree to limit your claims to claims for money damages (if any).

## **12. VOID WHERE PROHIBITED**

The information provided through the Service are not intended for distribution to or use by any person in any jurisdiction or country where such distribution or use would be contrary to law or regulation or which would subject the Company to any registration requirement within such jurisdiction or country. The Company makes no representation or warranty that any material in the Service is lawful in every jurisdiction from which such content can be accessed, or is available for use in all jurisdictions. THE SERVICE IS INTENDED FOR USE BY PERSONS AGE 18 OR OLDER. BY ACCESSING AND USING THE SERVICE, YOU REPRESENT AND WARRANT THAT YOU ARE 18 OR OLDER, AND THAT YOU AGREE TO AND TO ABIDE BY ALL OF THE TERMS AND CONDITIONS OF THESE TERMS, THE PRIVACY POLICY AND ADDITIONAL TERMS. IF YOU ARE UNDER THE AGE OF 18, THE COMPANY MAY IMMEDIATELY (WITHOUT NOTICE) TERMINATE THE LICENSES GRANTED HEREUNDER AND CANCEL YOUR ACCOUNT.

## **13. COMPLAINTS, NOTICE AND CONTACT INFORMATION**

The Company takes claims of infringement of intellectual property rights and violation of rights including rights of privacy or publicity very seriously. If you believe that any of the material that is or was in the Service infringes or has infringed any rights, including copyrights or trademarks, owned by you, or by an owner for which you are authorized to act, please email us at \_\_\_\_\_.

## **14. PRIVACY POLICY**

The Company is committed to respecting your privacy and the confidentiality of your personal information. The Privacy Policy sets out how the Company may collect, use, share and store your personal information. If you object to your personal information being used in the way set out in the Privacy Policy, you should not access or use the Site or Service.

## **15. RESTRICTIONS**

The Service may be subject to international rules that govern the export of software. You shall comply with all applicable international and national laws that apply to the Service as well as end-user, end-use and destination restrictions issued by national governments. The Company is making the Service available to you on the condition that you certify that the use of the Service is not otherwise in violation of any applicable export control and sanctions regulations.

## **16. MISCELLANEOUS**

If any provision of these Terms or the Privacy Policy is held to be invalid or unenforceable, that provision will be deemed to be restated to reflect as nearly as possible the original intention in accordance with applicable law, and the remainder of the Terms, the Privacy Policy will remain in full force and effect. These Terms and the Privacy Policy constitute the entire agreement between the parties with respect to the subject matter of these Terms and Privacy Policy and supersedes and replaces all prior or contemporaneous understandings or agreements, written or oral, regarding such subject matter. Nothing in the foregoing sentence shall exclude or restrict the liability of you arising out of fraud or fraudulent misrepresentation. Any waiver of any provision of these Terms will be effective only if in writing and signed by the Company. The failure of either party to assert any right under these Terms shall not be considered a waiver of that party's right will remain in full force and effect. In addition, these Terms and the Privacy Policy, including the Company's enforcement of those policies, are not intended to confer, and do not confer, any rights or remedies upon any person. You are not allowed to assign these Terms or

any rights hereunder. The Company is allowed at its sole discretion to assign these Terms or any rights under these Terms to any third party, without giving prior notice to you. Our licensors may be entitled to enforce these Terms. There are no other third party beneficiaries to these Terms.

If you have any questions, complaints, or comments regarding these Terms, or have other questions or suggestions about the Service, please email us at \_\_\_\_\_.

Effective Date: \_\_\_\_\_, 2019