

Employer Terms and Conditions

These Employer Terms and Conditions, including any exhibits, annexes, and appendices attached hereto (collectively, the “**Agreement**”), are entered into by and between Octi Health, Inc. (“**Company**”) and the entity executing the corresponding Order Form (“**Customer**”) (each, a “**Party**” and collectively, the “**Parties**”). By signing or otherwise accepting the Order Form, Customer acknowledges and represents that it has fully read and understood, and agrees to be bound by, the terms of this Agreement (the date of such occurrence being the “**Effective Date**”). Company will provide the Service to Customer’s Covered Members subject to the terms below and the Covered Member’s acceptance of the Covered Member Terms (defined in the Order Form) and execution of Company’s Authorization Form (defined in the Order Form).

1. **Definitions.** The following capitalized terms have the meanings set forth below:

- 1.1 “**Affiliate**” with respect to any entity, means any other entity controlling, controlled by, or under common control with such entity, where “control” means direct or indirect ownership or voting control of fifty percent (50%) or more of the equity or voting securities of the entity in question or having the power, by commitment or otherwise, to elect a majority of the Board of Directors (or similar governing body) of the entity in question.
- 1.2 “**Customer Data**” means electronic data and content submitted to the Service by Customer and Covered Members in connection with their use of the Service (defined below), excluding Analytics Information (defined below).
- 1.3 “**Feature**” means any module, tool, functionality, or feature of the Service.
- 1.4 “**Initial Subscription Term**” means the initial Service subscription period specified in the Order Form (12 months) or the initial subscription term specified in the Partner Order Form (as the case may be).
- 1.5 “**Order Form**” means a written or electronic order form, to or in which this Agreement is attached or incorporated, and which is agreed by the Parties. The Order Form shall include the commercial terms, including the Subscription Scope, agreed between the Parties.
- 1.6 “**Subscription Scope**” means any Service usage and/or limitations set forth in the Order Form (including Covered Members and, if applicable, success fee responsibility) or Partner Order Form (if purchased via Partner).
- 1.7 “**Support Services**” means any Service-related support services specified in the Order Form.

2. **Subscription.**

2.1 Access Right.

- (a) Subject to the terms and conditions of this Agreement, Company hereby grants Customer a limited, worldwide, non-exclusive, non-sublicensable, non-transferable and revocable right to remotely access the Company’s medical bill reduction software-as-a-service platform during the Subscription Term (defined below), solely to administer and enable Company’s medical bill reduction service (the “**Service**”) to Covered Members and their dependent children as described in Section 3.2 (*Services for Dependent Children of Covered Members*) (collectively, the “**Subscription**”). Unless otherwise indicated, the term “Service” also includes any manual or documentation provided or made available to Customer in connection with the operation of the Service (“**Documentation**”). Customer may use the Service subject to the Subscription Scope, other usage limitations or restrictions specified in this Agreement, and applicable laws and regulations.
- (b) Customer shall be solely responsible for providing all equipment, systems, assets, access, and ancillary goods and services needed to access and use the Service and for ensuring their compatibility with the Service. Covered Member access is contingent on each Covered Member’s acceptance of the Covered Member Terms and execution of the Authorization Form.

2.2 Additional Purchases. Purchases of access and/or usage to additional Features and/or additional volume under the Subscription Scope (collectively, “**Additional Purchases**”) shall be documented by a mutually signed written addendum to the Order Form or by executing a new Order Form, in each case according to the pricing agreed between the Parties. If Customer

makes any Additional Purchases during a Subscription Term, the Subscription Fees and the Service term therefor will be prorated to be coterminous with the Subscription Term.

- 2.3 Subscription Restrictions. As a condition to the Subscription, and except as expressly permitted otherwise under this Agreement, Customer shall not do (or permit or encourage to be done) any of the following Subscription restrictions (in whole or in part): (a) copy, "frame" or "mirror" the Service; (b) sell, assign, transfer, lease, rent, sublicense, or otherwise distribute or make available the Service to any third party (such as offering it as part of a time-sharing, outsourcing or service bureau environment); (c) publicly perform, display or communicate the Service; (d) modify, alter, adapt, arrange, or translate the Service; (e) decompile, disassemble, decrypt, reverse engineer, extract, or otherwise attempt to discover the source code or non-literal aspects (such as the underlying structure, sequence, organization, file formats, non-public APIs, ideas, or algorithms) of the Service; (f) remove, alter, or conceal any proprietary rights notices displayed on or in the Service; (g) circumvent, disable or otherwise interfere with security-related or technical features or protocols of the Service; (h) make a derivative work of the Service, or use it to develop any service or product that is the same as, competes with (or is substantially similar to) it; (i) store or transmit any robot, malware, Trojan horse, spyware, or similar malicious item intended (or that has the potential) to damage or disrupt the Service; or (j) take any action that imposes or may impose (as determined in Company's reasonable discretion) an unreasonable or disproportionately large load on the servers, network, bandwidth, or other cloud infrastructure which operate or support the Service, or otherwise systematically abuse or disrupt the integrity of such servers, network, bandwidth, or infrastructure (collectively, the "**Subscription Restrictions**").

3. **Account Setup.**

- 3.1 Administrator and User Accounts. To access the Service, Customer shall provide Company with an initial eligibility file as detailed in the Order Form. Company will then set up all necessary accounts, including (i) user accounts for each adult Covered Member (employees and adult dependents 18 years of age or older) identified in the eligibility file, and (ii) an administrator account for Customer's appointed liaison as specified in the Order Form (or another person designated by Customer in writing) ("**Administrator Account**"). The Administrator Account will provide access to view and edit the eligibility file and its details, as well as the Customer dashboard. Each adult Covered Member must log in, submit their information, and activate their account ("**User Account**") to receive the Service. No separate User Accounts will be created for dependent children under 18 years of age. Instead, the employee parent or guardian will manage their dependent children's profiles and medical bills through the employee's own User Account. To comply with the Children's Online Privacy Protection Act (COPPA), dependent children's information is associated with the parent or guardian's User Account, not separate independent accounts. References herein to the "**Account**" shall be deemed to include the Administrator Account and all User Accounts. Customer warrants that all information submitted in the eligibility file and during the account activation process is, and will thereafter remain, complete and accurate.
- 3.2 Services for Dependent Children of Covered Members. When a Covered Member who is an employee uses the Service to submit and manage medical bills for their dependent children under 18 years of age, the employee will do so through their own User Account. Company does not create separate User Accounts for children under 18 years of age. All information related to their medical bills will be associated with the employee parent or guardian's User Account. By submitting medical bills for dependent children, the employee parent or guardian confirms that: (a) they have legal authority to make healthcare decisions for their dependent children; (b) they have authority under applicable law to authorize disclosure of their dependent children's protected health information; and (c) they will complete and sign the Authorization Form to authorize Company to act on behalf of their dependent children. All references in this Agreement to a Covered Member's medical bills or information include medical bills and information for their dependent children that they submit through their User Account.
- 3.3 Account Responsibility and Security. Customer shall be responsible and liable for all activities that occur under the Administrator Account and shall require that all Covered Members keep

user ID and password information strictly confidential and not share such information with any unauthorized person. Customer shall be fully responsible and liable for any breach of this Agreement by a Covered Member. Customer must ensure that each Covered Member complies with the terms of this Agreement. Any unauthorized access to or use of the Service must be immediately reported to Company.

4. Support Services and Additional Services.

- 4.1 Support Services. Subject to Customer remaining current on all payment obligations under this Agreement, Customer will be entitled to receive the Support Services.
- 4.2 Additional Services. Any additional custom services (e.g., special engagement initiatives, training) will be agreed in writing and priced separately.

5. Fees.

- 5.1 PMPM Fees. Customer shall pay Company the PMPM (per-member-per-month) fees specified in the Order Form.

- (a) Initial Payment. The first payment will be prorated based on the number of Covered Members on Customer's initial eligibility file and the number of days remaining in the first month from the Order Effective Date. This initial prorated payment will be processed via automated ACH debit immediately upon the Order Effective Date.
- (b) Recurring Monthly Billing: Following the initial prorated period, Customer will be billed in advance on the 15th of each month for the upcoming month's service. Invoices will be issued on or before the 15th of each month based on the Covered Member count recorded in the Octi app as of the 10th of that month. Payment will be processed via automated ACH debit within five (5) business days of the invoice date.
- (c) Reconciliation: Each monthly invoice issued on the 15th will also include a reconciliation adjustment (credit or additional charge) for any variance between the prior month's advance payment and the actual Covered Member count recorded in the Octi app for that prior period, as further described in Section 5.3 (*Covered Member Count; Billing; Automated Proration*)

- 5.2 Success Fees. The success fee percentage on savings is specified in the Order Form and will be charged per Closed Bill (as defined in the Covered Member Terms) to the Covered Member unless the Order Form specifies that Customer will pay success fees on behalf of Covered Members.

5.3 Covered Member Count; Billing; Automated Proration.

- (a) An individual is counted as a Covered Member beginning on the eligibility effective date and ending on the eligibility termination date shown on Customer's eligibility file.
- (b) Monthly Billing Cycle: Company will issue invoices in advance on or before the 15th day of each month for the upcoming month's service based on the number of Covered Members recorded in the Octi app as of the 10th day of that month. Each invoice will include: (i) the advance charge for the upcoming month based on the 10th-day snapshot, and (ii) a reconciliation adjustment (credit or additional charge) for any variance between the prior month's advance payment and the actual Covered Member count. The Octi app serves as the source of truth for Covered Member headcount. Mid-period additions and terminations will be reflected in the end-of-period reconciliation included in the next month's invoice.
- (c) Covered Members will be prorated on a daily basis for partial months of coverage. The daily rate is calculated as the monthly PMPM fee divided by the number of days in the applicable calendar month. Mid-period additions and terminations will be reflected in the end-of-period reconciliation described in subsection (b) above. Any overpayments resulting from census decreases will be applied as a credit to the next month's invoice (no refunds will be issued). Customer's account must maintain a minimum of five (5) Covered Members at all times during the Subscription Term.
- (d) If Customer's eligibility file for a billing period is missing or cannot be processed, Company may use the most recent prior period's Covered Members count, subject to adjustment when a corrected file is received.

- 5.4 **General.** Unless expressly stated otherwise in the Order Form: (a) all fees and other charges are stated, and are to be paid, in U.S. Dollars; (b) all payments under this Agreement are non-refundable and are without any right of set-off or cancellation; (c) any amount not paid when due will accrue interest on a daily basis until paid in full, at the lesser of the rate of one and a half percent (1.5%) per month and the highest amount permitted by applicable law.
- 5.5 **Suspension.** Company reserves the right to temporarily suspend provision of the Service: (a) if Customer's ACH payment is rejected or fails, or if Customer is three (3) business days or more overdue on a payment following notice; (b) if Company deems such suspension necessary as a result of Customer's breach under Section 2.3 (*Subscription Restrictions*); (c) if Company reasonably determines suspension is necessary to avoid material harm to Company or its other customers, including if the Service's cloud infrastructure is experiencing denial-of-service attacks or other attacks or disruptions outside of Company's control; or (d) as required by law or at the request of governmental entities.
- 5.6 **Taxes.** Amounts payable under this Agreement are exclusive of all applicable sales, use, consumption, and other taxes, duties, or governmental charges, except for taxes based upon Company's net income. In the event that Customer is required by any law applicable to it to withhold or deduct taxes for any payment under this Agreement, then the amounts due to Company shall be increased by the amount necessary so that Company receives and retains, free from liability for any deduction or withholding, an amount equal to the amount it would have received had Customer not made any such withholding or deduction. If a purchase order (or purchase order number) is required by Customer in order for an invoice to be paid, then Customer shall promptly provide such purchase order (or number) to Company.
6. **Personal Data.** Company shall materially comply with applicable state privacy laws and data protection regulations. Company will not share individually identifiable medical information with Customer without the Covered Member's express consent, except as permitted by law. This includes medical information about Covered Members' dependent children. Customer acknowledges that Covered Members must execute Company's Authorization Form before services are provided. To the extent that Customer needs a data processing agreement ("**DPA**"), Customer shall request Company to provide it with Company's DPA and return it signed to Company as described therein.
7. **Mutual Warranties.** Each Party represents and warrants that it is duly organized, validly existing and in good standing under the laws of its jurisdiction of incorporation or organization; and that the execution and performance of this Agreement will not conflict with other agreements to which it is bound or violate applicable law.
8. **COMPANY WARRANTIES AND DISCLAIMERS.**
- 8.1 **Company Warranties.** Company represents and warrants that it will make commercially reasonable efforts to achieve savings on Covered Member medical bills. The warranty set forth herein shall not apply if the failure of the Service results from or is otherwise attributable to: (i) repair, maintenance, or modification of the Service by persons other than Company or its authorized contractors; (ii) accident, negligence, abuse, or misuse of the Service; (iii) use of the Service other than in accordance with the Documentation or this Agreement; (iv) the combination of the Service with equipment or software not authorized or provided by Company; or (v) Customer's or Covered Member's failure to provide accurate or complete information; or (vi) circumstances beyond Company's reasonable control, including actions or inactions by healthcare providers, insurance companies, or billing departments.
- 8.2 **DISCLAIMERS.** OTHER THAN AS EXPLICITLY STATED IN THIS AGREEMENT, TO THE EXTENT PERMITTED BY APPLICABLE LAW, THE SERVICE, PLATFORM CONTENT, AND THE RESULTS THEREOF ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS. COMPANY DISCLAIMS ALL EXPRESS, IMPLIED, AND STATUTORY WARRANTIES, INCLUDING WARRANTIES OF MERCHANTABILITY, SATISFACTORY QUALITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, NON-

INFRINGEMENT, NON-INTERFERENCE, AND ANY WARRANTIES ARISING FROM COURSE OF DEALING OR USAGE OF TRADE.

COMPANY DOES NOT WARRANT THAT: (A) THE SERVICE WILL MEET CUSTOMER'S REQUIREMENTS OR OPERATE ERROR-FREE; (B) THE SERVICE WILL BE UNINTERRUPTED, SECURE, OR ERROR-FREE; (C) THE EFFECTIVENESS, USEFULNESS, OR COMPLETENESS OF THE SERVICE; OR (D) THE ACCURACY OF ANY DATA OR INFORMATION. COMPANY WILL NOT BE LIABLE FOR DELAYS, INTERRUPTIONS, SERVICE FAILURES, OR OTHER PROBLEMS INHERENT IN USE OF THE INTERNET AND ELECTRONIC COMMUNICATIONS OR FOR ISSUES RELATED TO PUBLIC NETWORKS, CUSTOMER'S HOSTING SERVICES, OR THIRD-PARTY INFRASTRUCTURE. COMPANY DOES NOT GUARANTEE SPECIFIC SAVINGS OR OUTCOMES AND IS NOT PROVIDING MEDICAL, LEGAL, OR FINANCIAL ADVICE.

COMPANY SHALL NOT BE LIABLE FOR PROVIDER/INSURER ACTIONS (E.G., COLLECTIONS, CREDIT REPORTING) OR FOR DAMAGES, LOSSES, OR ADVERSE ACTIONS INCURRED BY INDIVIDUAL COVERED MEMBERS OR DEPENDENTS ARISING FROM THIRD-PARTY CONDUCT, INCLUDING BUT NOT LIMITED TO ACTIONS OR INACTIONS BY HEALTHCARE PROVIDERS, INSURANCE COMPANIES, BILLING DEPARTMENTS, OR COLLECTION AGENCIES.

THE PROVISIONS OF SECTION 7 (*MUTUAL WARRANTIES*) AND THIS SECTION 8 (*COMPANY WARRANTIES AND DISCLAIMERS*), TOGETHER WITH SECTION 13 (*LIMITATION OF LIABILITY*), ALLOCATE THE RISK UNDER THIS AGREEMENT BETWEEN THE PARTIES, AND THE PARTIES HAVE RELIED ON THESE WARRANTIES, DISCLAIMERS, EXCLUSIONS, AND LIMITATIONS IN DETERMINING WHETHER TO ENTER INTO THIS AGREEMENT AND IN SETTING THE FEES HEREUNDER.

9. Intellectual Property Rights.

- 9.1 Service. As between the Parties, Company is, and shall be, the sole and exclusive owner of all intellectual property rights in and to: (a) the Service and all related software and intellectual property; and (b) any and all improvements, derivative works, and/or modifications of/to the foregoing, regardless of inventorship or authorship. Customer shall make, and hereby irrevocably makes, all assignments necessary or reasonably requested by Company to ensure and/or provide Company the ownership rights set forth in this paragraph. Company shall be entitled, from time to time, to modify and replace the Features (but not material functionalities, unless it improves the material functionality) and user interface of the Service. Nothing herein constitutes a waiver of Company's intellectual property rights under any law.
- 9.2 Feedback. If Company receives any feedback (which may consist of questions, comments, suggestions or the like) regarding any of the Services (collectively, "**Feedback**"), all rights, including intellectual property rights in such Feedback shall belong exclusively to Company and such shall be considered Company's Confidential Information. Customer hereby irrevocably and unconditionally transfers and assigns to Company all intellectual property rights it has in such Feedback and waives any and all moral rights that Customer may have in respect thereto. It is further understood that use of Feedback, if any, may be made by Company at its sole discretion, and that Company in no way shall be obliged to make use of the Feedback.
- 9.3 Analytics Information; De-Identified Data. Customer acknowledges and agrees that Company may collect and process information regarding the configuration, performance, security, access to, and use of the Service by Customer and Covered Members for its internal business purposes, including to develop, improve, support, secure, and operate the Service and to fulfill legal obligations. Any anonymous information, derived from the use of the Service (i.e., metadata, aggregated and/or analytics information and/or intelligence relating to the operation, support, and/or Customer's use, of the Service) which is not personally identifiable information and

does not identify Customer or Covered Members (“**Analytics Information**”) may be used by Company to provide the Service, for compliance with applicable laws, and for development and/or statistical purposes. In compliance with law, Company may use aggregated and de-identified data derived from Employer and Covered Members for, without limitation, analytics, research, product development, marketing, and commercial use. Analytics Information is Company's exclusive property.

9.4 Customer Data.

- (a) While using the Service, Customer Data may be made available and/or accessible to Company or the Service. Customer hereby grants Company and its Affiliates a worldwide, non-exclusive, non-assignable (except as provided herein), non-sublicensable (except to Company's subcontractors, if applicable), non-transferable right and license to access and use the Customer Data, including without limitation for Company's provision of the Services and related services hereunder as further specified in this Agreement.
- (b) The Service does not operate as an archive or file storage service, and Customer is solely responsible for backups of Customer Data.
- (c) As the exclusive owner of the Customer Data, Customer represents, warrants, and covenants that to the extent the Customer Data includes any personally identifiable information, Customer has received and/or obtained any and all required consents or permits and has acted in compliance with any and all applicable laws, including, without limitation, privacy laws, to allow Company to receive, transfer, and use the Customer Data solely in order to perform the Service.
- (d) Company may use or disclose the Customer Data: (i) to satisfy any applicable law, regulation, legal process, subpoena, or governmental request; and/or (ii) to collect, store, transfer, and/or process the Customer Data through Company's Affiliates, third-party service providers, and vendors, as reasonably necessary to provide the Service. Company will maintain commercially reasonable administrative, technical, and physical safeguards designed to protect the security, confidentiality, and integrity of the Customer Data.
- (e) Company may share de-identified, aggregate program outcomes with Customer; individual-level information will be shared only with a Covered Member's express consent or as permitted by law.

10. **Third-Party Components.** The Service may use or include third-party open-source software, files, libraries, or components, or other third-party software (collectively, "**Third-Party SW**"), that may be distributed to Customer and are subject to third-party license terms. A list of any Third-Party SW and related licenses will be provided by Company upon request. If there is a conflict between any third-party license and the terms of this Agreement, then the third-party license terms shall prevail, but solely in connection with the related third-party software. Company makes no warranty or indemnity hereunder with respect to any third-party software.

11. **Confidentiality.** “**Confidential Information**” means any non-public information disclosed by or on behalf of one Party (“**Discloser**”) to the other Party (“**Recipient**”) pursuant to this Agreement that is marked as “confidential,” or in some other manner to indicate its confidential nature or which is confidential by its nature. Without limiting the foregoing, the Service is Company's Confidential Information. Confidential Information does not include any information which: (i) is or becomes generally known and available to the public through no act of the Recipient; (ii) was already in the Recipient's possession without a duty of confidentiality owed to the Discloser at the time of the Discloser's disclosure; (iii) is lawfully obtained by the Recipient from a third party who has the express right to make such disclosure; or (iv) is independently developed by the Recipient without breach of an obligation owed to the Discloser. The Recipient may use the Discloser's Confidential Information solely to perform its obligations under this Agreement. Except as set forth in the immediately following sentence, the Recipient will not disclose the Discloser's Confidential Information to any third party except to its employees, consultants, affiliates, agents, and subcontractors, having a need to know such information to perform its obligations under this Agreement who have signed a non-disclosure agreement with the Recipient containing terms at least as protective of the Discloser's Confidential Information as those contained herein. The

Recipient may disclose the Discloser's Confidential Information to the extent that such disclosure is required by law or by the order of a court of similar judicial or administrative body, provided that it notifies the Discloser of such required disclosure to enable Discloser to seek a protective order or otherwise to prevent or restrict such disclosure. All right, title, and interest in and to Confidential Information are and will remain the sole and exclusive property of the Discloser. The Recipient will use no less than commercially reasonable efforts to protect the Discloser's Confidential Information from unauthorized access, use, or disclosure. Company's obligations with respect to the protection of PHI obtained pursuant to the Authorization Form are as set forth under applicable law.

12. **AI FEATURES.** The Service may involve and/or allow access to and/or use of artificial intelligence tools and/or Features, including, without limitation, features provided by third parties (collectively, "**AI Features**"). AI Features provided by third parties are subject to the applicable third party's terms. A list of such third parties can be found [here](#). When activating and/or using such AI Features, Customer acknowledges and agrees to comply with applicable third party's terms, and that Customer Data and personal information may be transferred, processed and/or stored by third parties. Results generated by AI Features are automatically produced (by machine) and may be inaccurate, incorrect, contain non-unique elements, or display content similar to that shown to other customers or users. Manual or human review is required. The use of AI Features is at the Customer's own discretion and sole risk.

13. **LIMITATION OF LIABILITY.**

- 13.1 NEITHER PARTY SHALL BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES, OR ANY LOSS OF REVENUE, PROFITS, REPUTATION OR GOODWILL, DATA, OR DATA USE, OR THE COST OF PROCURING ANY SUBSTITUTE GOODS OR SERVICES. COMPANY SHALL NOT BE LIABLE FOR PROVIDER/INSURER ACTIONS (E.G., COLLECTIONS, CREDIT REPORTING) OR FOR DAMAGES, LOSSES, OR ADVERSE ACTIONS INCURRED BY INDIVIDUAL COVERED MEMBERS OR DEPENDENTS ARISING FROM THIRD-PARTY CONDUCT.
- 13.2 NEITHER PARTY'S MAXIMUM LIABILITY FOR ANY DAMAGES ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER IN CONTRACT, TORT, OR OTHERWISE, SHALL EXCEED, IN THE AGGREGATE, THE TOTAL AMOUNTS ACTUALLY PAID OR PAYABLE TO COMPANY BY CUSTOMER IN THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO SUCH CLAIM.
- 13.3 THE LIMITATIONS IN THIS SECTION DO NOT APPLY TO EITHER PARTY'S INDEMNIFICATION OBLIGATIONS OR PAYMENTS DUE TO COMPANY UNDER THIS AGREEMENT.
- 13.4 THE FOREGOING EXCLUSIONS AND LIMITATIONS ARE CUMULATIVE AND NOT PER INCIDENT AND SHALL APPLY: (A) TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW; (B) EVEN IF A PARTY HAS BEEN ADVISED, OR SHOULD HAVE BEEN AWARE, OF THE POSSIBILITY OF LOSSES, DAMAGES, OR COSTS; (C) EVEN IF ANY REMEDY IN THIS AGREEMENT FAILS OF ITS ESSENTIAL PURPOSE; AND (D) REGARDLESS OF THE THEORY OR BASIS OF LIABILITY, AND WHETHER IN CONTRACT, TORT (INCLUDING WITHOUT LIMITATION FOR NEGLIGENCE OR BREACH OF STATUTORY DUTY), STRICT LIABILITY, MISREPRESENTATION, OR OTHERWISE.

14. **Indemnification.**

- 14.1 Company Indemnification.
- (a) Company agrees to defend, at its expense, any third-party action or suit brought against Customer alleging that the Service, when used as permitted under this Agreement, infringes intellectual property rights of a third party ("**IP Infringement Claim**"); and Company will pay any damages finally awarded by a court of competent jurisdiction against Customer that are attributable to any such IP Infringement Claim, provided that Customer (i)

promptly notifies Company in writing of such claim; and (ii) grants Company the sole authority to handle the defense or settlement of any such claim and provides Company with all reasonable information and assistance in connection therewith, at Company's expense. Company will not be bound by any settlement that Customer enters into without Company's prior written consent.

- (b) If the Service becomes, or in Company's opinion is likely to become, the subject of an IP Infringement Claim, then Company may, at its sole discretion: (i) procure for Customer the right to continue using the Service; (ii) replace or modify the Service to avoid the IP Infringement Claim; or (iii) if options (i) and (ii) cannot be accomplished despite Company's reasonable efforts, then Company may terminate the affected Order Form(s) upon written notice to Customer, and Customer shall be entitled to receive a pro-rated refund of any prepaid PMPM Fees under such Order Form(s) based on the remaining period of the corresponding Subscription Term(s).
- (c) Notwithstanding the foregoing, Company shall have no responsibility for IP Infringement Claims resulting from or based on: (i) Company's compliance with Customer's instructions or specifications; (ii) if relevant, Customer's failure to implement software updates provided by Company specifically to avoid infringement; or (iii) the combination or use of the Services with equipment, devices or software not supplied by Company or not in accordance with the Documentation.
- (d) This Section 14.1 states Company's entire liability, and Customer's exclusive remedy, for any IP Infringement Claim.

14.2 Customer Indemnification.

- (a) Customer agrees to indemnify, defend, and hold harmless Company, its Affiliates, and their respective officers, directors, employees, and agents from and against any and all third-party claims, demands, damages, liabilities, costs, and expenses (including reasonable attorneys' fees) arising out of or related to: (i) Customer-provided eligibility data or Customer's communications to Covered Members, including any eligibility data concerning dependent children of Covered Members; (ii) Customer's breach of this Agreement or violation of applicable laws in connection with its use of the Service; (iii) unauthorized access to the Service through Customer's Account or misuse of the Service by Customer or its Covered Members; (iv) any content or data provided by Customer or Covered Members, including information about dependent children; or (v) Customer's failure to obtain all necessary consents, permissions, or authorizations as required under this Agreement or applicable law.
- (b) Company will: (i) promptly notify Customer in writing of such claim; (ii) grant Customer sole authority to handle the defense or settlement of any such claim (provided that Customer shall not settle any claim in a manner that admits fault or imposes obligations on Company without Company's prior written consent); and (iii) provide Customer with reasonable information and assistance in connection with the defense or settlement of any such claim, at Customer's expense, including ensuring that Covered Members have authority to provide information about their dependent children.

15. **Term and Termination.**

- 15.1 Term. This Agreement commences on the Effective Date and, unless terminated in accordance herewith, shall continue in full force and effect for the duration of the Initial Subscription Term. Unless otherwise specified in the Order Form, following the Initial Subscription Term, the Order Form shall automatically renew for successive Subscription Terms of twelve (12) months (each, a "**Renewal Subscription Term**", and together with the Initial Subscription Term, the "**Subscription Term**"), unless either Party notifies the other Party in writing of its intent not to renew the Order Form at least sixty (60) days prior to the expiration of the then-current Subscription Term.

- 15.2 Termination for Breach. Each Party may terminate this Agreement immediately upon written notice to the other Party if the other Party commits a material breach under this Agreement and, if curable, fails to cure that breach within sixty (60) days after receipt of written

notice specifying the material breach (except that for payment defaults, such cure period will be seven (7) days).

15.3 Termination for Bankruptcy. Each Party may terminate this Agreement upon written notice to the other Party upon the occurrence of any of the following events in respect of such other Party: (a) a receiver is appointed for the other Party or its property, which appointment is not dismissed within sixty (60) days; (b) the other Party makes a general assignment for the benefit of its creditors; (c) the other Party commences, or has commenced against it, proceedings under any bankruptcy, insolvency, or debtor's relief law, which proceedings are not dismissed within sixty (60) days; or (d) the other Party is liquidating, dissolving, or ceasing normal business operations.

15.4 Effect of Termination; Survival. Upon termination of this Agreement for any reason: (a) the Subscription shall automatically terminate; (b) Customer shall cease all access and use of the Services thereunder and shall, if applicable, remove the applicable Service from all hard drives, networks, and other storage media and destroy all copies of the applicable Service in Customer's possession or under Customer's control, and to the extent requested by Company, provide a certification to that effect within ten (10) business days; (c) Company will cease to provide the Service, including without limitation all unconcluded efforts to reduce medical bills of Covered Members; and (d) Customer shall (as directed) permanently erase and/or return all Confidential Information of Company in Customer's possession or control. Following termination, all outstanding Fees and other charges that accrued as of termination shall become immediately due and payable, and if necessary Company shall issue a final invoice therefor. The provisions of this Agreement that, by their nature and content, must survive the termination of this Agreement to achieve the fundamental purposes of this Agreement (including limitation of liability) shall so survive. Termination shall not affect any rights and obligations accrued as of the effective date of termination.

16. Miscellaneous.

16.1 Entire Agreement. This Agreement, including the data processing agreement (if applicable), and any exhibits attached or referred hereto, represents the entire agreement between the Parties concerning the subject matter hereof, replaces all prior and contemporaneous oral or written understandings and statements, and may be amended only by a written agreement executed by both Parties. Any terms and conditions (whether printed, linked to, or otherwise) within any purchase order or related correspondence that purport to modify or supplement the terms and conditions of this Agreement (or the corresponding Order Form) shall be void and of no effect.

16.2 No Waiver. The failure of either Party to enforce any rights granted hereunder or to take action against the other Party in the event of any breach shall not be deemed a waiver by that Party as to subsequent enforcement or actions in the event of future breaches. Any waiver granted hereunder must be in writing.

16.3 Severability. If any provision of this Agreement is held by a court of competent jurisdiction to be illegal, invalid, or unenforceable, the remaining provisions of this Agreement shall remain in full force and effect, and such provision shall be reformed only to the extent necessary to make it enforceable.

16.4 Government Use. Any use of the Service by an agency, department, or other entity of the United States government shall be governed solely by the terms of this Agreement.

16.5 Publicity. Customer hereby agrees that (i) Company may use Customer's name and logo to identify Customer as a customer of Company or user of the Service, on Company's web site, presentations, marketing materials or otherwise; and (ii) Customer, to the extent requested by Company, shall use commercially reasonable efforts to positively address communications it receives from Company's potential customers. In addition, Customer will cooperate with Company to create a quote/case study that will be published on the Company website. Following the termination of this Agreement, Customer may request Company to remove such customer reference.

- 16.6 No Third Parties. Except as stated otherwise herein, this Agreement is for the sole benefit of the Parties hereto, and nothing herein, express or implied, shall give, or be construed to give, any rights hereunder to any other person.
- 16.7 Assignment. Neither Party may assign its rights or obligations under this Agreement without the prior written consent of the other Party, which consent may not be unreasonably withheld or delayed. Notwithstanding the foregoing, this Agreement may be assigned by either Party in connection with a merger, consolidation, sale of all of the equity interests of such Party, or a sale of all or substantially all of the assets of the Party to which this Agreement relates. Without derogating from and subject to the abovementioned, this Agreement will bind and benefit each Party and its respective successors and assigns.
- 16.8 Governing Law; Arbitration.
- (a) This Agreement shall be governed by and construed in accordance with the laws of the State of Delaware, USA without regard to principles of conflicts of law.
 - (b) All disputes arising out of or in connection with this Agreement shall be finally and exclusively settled by arbitration administered by JAMS under its Streamlined Arbitration Rules and Procedures before a single arbitrator. The place of arbitration shall be Delaware, USA. The language of the arbitration shall be English. Notwithstanding the foregoing, each Party may also seek interim relief in any court of competent jurisdiction. The law governing this arbitration agreement shall be the governing law set forth above. The Parties commit to maintain the arbitration proceedings in strict confidentiality and to keep confidential, inter alia, all awards and orders produced by the arbitral tribunal in the arbitration, together with all materials created for the purpose of the arbitration, as well as all materials submitted by or received from the other Party as part of the arbitral proceedings not already in the public domain, except: (i) sharing the information with auditors, advisors, or as part of due diligence, subject to a confidentiality agreement; and (ii) where disclosure is strictly necessary because it is required of a Party (A) by a legal duty or to pursue a public offering; or (B) to enforce or challenge an award in bona fide legal proceedings before a court or other judicial authority; provided that before making any disclosure under this clause (ii), the Party required to make the disclosure shall take all reasonable measures to protect the confidentiality of the information and give written notice to the other Party, affording such Party reasonable opportunity and cooperation to protect its confidentiality.
 - (c) The application of a Party to a judicial authority for interim relief shall not be deemed to be an infringement or a waiver of the arbitration agreement and shall not affect the relevant powers reserved to the arbitral tribunal. EACH PARTY IRREVOCABLY WAIVES ITS RIGHT TO TRIAL BY JURY OF ANY ISSUE.
- 16.9 Amendments. No modifications to this Agreement can be made except in writing, signed by the Customer and Company.
- 16.10 No Agency. This Agreement does not, and shall not be construed to, create any relationship, partnership, joint venture, employer-employee, agency, or franchisor-franchisee relationship between the Parties. Neither Party has any authority to enter into agreements of any kind on behalf of the other Party.
- 16.11 Force Majeure. Company will not be liable for any delay or failure to provide the Services resulting from circumstances or causes beyond the reasonable control of Company, including, but not limited to on account of strikes, shortages, riots, insurrection, fires, flood, storms, explosions, acts of God, war, government or quasi-governmental authorities actions, riot, acts of terrorism, earthquakes, explosions, power outages, pandemic or epidemic (or similar regional health crisis), or any other cause that is beyond the reasonable control of Company.
- 16.12 Notices. All notices shall be given solely via email at the respective contact email addresses specified in the Order Form. Emails sent before 13:00 hours (local time for the receiving Party) shall be deemed received on the day the email is sent, or if sent after 13:00 (local time for the receiving Party), then on the next business day.