

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

OhMD, Inc.

Terms of Use

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

- www.OhMD.com (our “Website”);
- OhMD, our mobile application (our “App”); and
- The services (“Services”) made available through our Website and/or App.

The Website, App, and Services are collectively referred to as our “Platform.”

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 and our [Privacy Policy](#). 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 PLATFORM.

Binding Arbitration. These Terms of Use provide that all disputes between you and OhMD 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 OhMD.

1. SERVICES PROVIDED – NO MEDICAL CARE OR ADVICE

OhMD is a provider of patient communication software that allows medical practices and other health care providers (“Providers”) to communicate directly with patients. OhMD is not a medical group and does not provide medical advice, care, and/or treatment. Control over the care provided is the sole responsibility of the independent medical practices and the Providers they employ. Patients should contact the Providers directly for all questions concerning their medical care.

By using the Services, you acknowledge the Services may not be as effective as an in person office visit or direct phone call between a physician and patient. Accordingly, the Services are not intended to substitute for such appointments or calls. In addition, you acknowledge the potential risks associated with the Services including but not limited to the following: information transmitted may not be sufficient to allow for appropriate medical or health care decision making by the Provider; delays in evaluation or treatment could occur due to failures of electronic equipment; 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.

2. NOT FOR EMERGENCIES

Our Platform and the Services are not for medical emergencies or urgent situations. 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.**

3. PRIVACY POLICY

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.

4. 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](#).

5. AVAILABILITY OF SERVICES AND PLATFORM

OhMD 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.

6. ACCURACY AND INTEGRITY OF INFORMATION

Although we attempt to ensure the integrity and accuracy of the Platform, we make 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, OhMD shall have no responsibility or liability for information or Content posted to the Platform from any unaffiliated third party.

7. 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 OhMD, 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 or mobile device 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 OhMD 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 OhMD.

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 OhMD. 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.

8. YOUR ACCOUNT; ACCESS TO PLATFORM, SECURITY, AND RESTRICTIONS; PASSWORDS

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.

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.

Except for ADA accessibility purposes, 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. The Platform has several accessibility options to enable use of our Platform for everyone regardless of their circumstances. In the event our ADA accessibility options are not sufficient and your particular circumstances require using Automated Action on the Platform, please contact us through email at privacy@ohmd.com or through phone at 888-221-5320 for an accommodation.

Violations of system or network security may result in civil or criminal liability. OhMD 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 as provided to you by us. 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 OhMD at any time with or without cause. You agree to defend, indemnify, and hold OhMD 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 OhMD that you have the legal right and authorization to provide all User Information to OhMD for use as set forth herein and required by OhMD.

OhMD may de-identify your information such that it is no longer considered protected health information or personally identifiable information. OhMD may use, aggregate, sell, or otherwise disclose such de-identified information to third parties for analytics, research, or any other purpose permitted by applicable law.

9. LICENSE TO USE OUR APP

OhMD grants to you a non-transferable license to use the App on your mobile device that you own or control. OhMD reserves all rights in and to the App not expressly granted to you under these Terms of Use. The terms of these Terms of Use will govern any content, materials, or services accessible from or purchased within the App as well as upgrades provided by OhMD that replace or supplement the original App, unless such upgrade is accompanied by a new or revised Terms. You may not transfer, redistribute or sublicense the App and, if you sell your mobile device to a third party, you must remove the App from the mobile device before doing so. You may not copy (except as permitted by this license), reverse-engineer, disassemble, attempt to derive the source code of, modify, or create derivative works of the App, any updates, or any part thereof (except as and only to the extent that any foregoing restriction is prohibited by applicable law or to the extent as may be permitted by the licensing terms governing use of any open-sourced components included with the App).

The license to use our App is restricted as follows:

- a. *Limitations on Copying and Distribution.* You may not copy or distribute the App except to the extent that copying is necessary to use the App for purposes set forth herein.

- b. *Limitations on Reverse Engineering and Modification.* You may not reverse engineer, decompile, disassemble, modify or create works derivative of the App, except to the extent expressly permitted by applicable law.
- c. *Sublicense, Rental and Third Party Use.* You may not assign, sublicense, rent, timeshare, loan, lease or otherwise transfer the App, or directly or indirectly permit any third party to copy and install the App on a mobile device not owned and controlled by you.
- d. *Proprietary Notices.* You may not remove any proprietary notices (e.g., copyright and trademark notices) from the App or its documentation.
- e. *Use in Accordance with Documentation.* All use of the App must be in accordance with its then current documentation, if any, provided with the App or made available on OhMD's Platform.
- f. *Confidentiality.* You must hold the App and any related documentation in strict confidence for your own use only.
- g. *Compliance with Applicable Law.* You are solely responsible for ensuring your use of the App is in compliance with all applicable foreign, federal, state and local laws, and rules and regulations.

10. EXTERNAL SERVICES

The Platform may enable access to OhMD's and/or third-party services and websites (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. A link to a non-OhMD 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. 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 OhMD 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 OhMD 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 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.

11. 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. OhMD may contact you by telephone, mail, or e-mail to verify your information. OhMD 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 fourteen (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.

12. CONSENT TO RECEIVE CALLS, TEXT MESSAGES, AND AUDIO

OhMD is 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](#).

By providing your mobile number, you are agreeing to be contacted by or on behalf of OhMD at the mobile number you have provided, including calls and text (SMS) messages, to receive informational, service related (e.g., reminders, etc.), and commercial/marketing 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.

13. SUPPLEMENTAL TERMS APPLICABLE TO PROVIDERS

These supplemental terms apply to Providers 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 using the Platform (for purposes of this Section, “**Provider**” or “**you**”), you must be a licensed physician, nurse practitioner, or healthcare professional contracted or employed by a medical practice or other health care provider that has contracted with OhMD for the Services, 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 OhMD users (including, but not limited to, your Provider patients) is directly between you and the patient. The patient will never have a physician-patient relationship with OhMD. OhMD does not practice medicine and offers no medical services. As set forth more fully below, Provider is solely responsible for all agreements, consents, notices, and other interactions with patients and other consumers. Without limiting the generality of the foregoing, Provider and OhMD are each

responsible for all billings and collections from patients and other consumers, and OhMD 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 OhMD agree that OhMD 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 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 OhMD and waives any and all potential claims against OhMD 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 OhMD 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 OhMD, 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 OhMD's prior written consent to any settlement or judgment in which Provider agrees to any finding of fault of OhMD or defect in the Platform. OhMD 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 OhMD that you have the legal right and authorization to upload all Provider Content to the Platform. OhMD shall have a royalty-free, irrevocable, transferable right, and license to use the Provider Content however OhMD 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. OhMD 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.

OhMD 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 OhMD 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. OhMD and its affiliates take no responsibility and assume no liability for any Provider Content submitted by you or any third party.

14. 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 and OhMD. Nothing in the Terms of Use is intended to relieve or discharge the obligation or liability of any third persons to you and OhMD, nor shall any provision give any third parties any right of subrogation or action over against you or OhMD. The Platform is only provided for your benefit and may not be relied on by any third party.

15. DISPUTE RESOLUTION; ARBITRATION AGREEMENT

We will try to work in good faith to resolve any issue you have with the Platform, including 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 OhMD 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 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 OhMD 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 OhMD.

If you desire to assert a claim against OhMD, and you therefore elect to seek arbitration, you must first send to OhMD, by certified mail, a written notice of your claim ("**Notice**"). The Notice to OhMD should be addressed to: OhMD, Inc. Attn: LEGAL NOTICE, PO Box 8022, Burlington, Vermont 05402 ("**Notice Address**"). If OhMD 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 OhMD, must (a) describe the nature and basis of the claim or dispute; and (b) set forth the specific relief sought ("**Demand**"). If OhMD and you do not reach an agreement to resolve the claim within 30 days after the Notice is received, you or OhMD may commence an arbitration proceeding or file a claim in small claims court. During the arbitration, the amount of any settlement offer made by OhMD 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. If you are required to pay a filing fee, after OhMD 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, 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 OhMD 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 OhMD's last written settlement offer made before an arbitrator was selected (or if OhMD did not make a settlement offer before an arbitrator was selected), then OhMD 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 OHMD 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 OhMD 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 Chittenden County, Vermont. Both OhMD 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.

16. INDEMNIFICATION

You agree to defend, indemnify, and hold OhMD 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, 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 OhMD; or (iv) any negligent or wrongful act or omission by you in your use or misuse of the Platform, Services, or any information on the Platform, including without limitation, infringement of third party intellectual property rights, privacy rights, or negligent or wrongful conduct.

17. DISCLAIMER OF WARRANTIES

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

18. LIMITATION OF LIABILITY REGARDING USE OF PLATFORM AND SERVICES

OHMD 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 OHMD TO YOU WITH RESPECT TO YOUR USE OF THE PLATFORM AND SERVICES IS \$500 (FIVE HUNDRED DOLLARS).

19. 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 OhMD. 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. OhMD shall resume the performance of its obligations as soon as reasonably practicable after the removal of the cause.

20. COPYRIGHT & TRADEMARK INFORMATION

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21. REVISIONS; GENERAL

OhMD 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 OhMD and you pertaining to the subject matter hereof. In its sole discretion, OhMD 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.

22. CONTACT US

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