

## Terms of Use

Effective Date: December 1, 2021

Welcome to ZealCare, Inc.

These Terms of Use (the “Terms”) cover your access to and use of Services offered by ZealCare, Inc. and its affiliates and subsidiaries (“ZealCare”, “we”, “our”, or “us”). For purposes of these Terms, our “Services” include:

- ZealCare’s digitally based health care programs (the “ZealCare Programs”);
- ZealCare’s mobile applications (the “Apps”);
- the websites that ZealCare operates (the “Sites”); and
- all related services and features that ZealCare provides.

In addition, our Privacy Policy describes how we collect, use, and disclose personal information from you. The Privacy Policy is part of these Terms and is incorporated by reference into these Terms. Please read these Terms carefully as they contain important information about your legal rights. By accessing or using the Services, you agree to be bound by these Terms.

If you are accessing or using the Services because you have been authorized to help another person do so, these Terms constitute a legally binding agreement between ZealCare, and both the helper and the person being helped. You represent and warrant that you have the right, authority, and capacity to accept these Terms.

IF YOU ARE NOT WILLING TO BE OR CANNOT BE BOUND BY THESE TERMS, THEN YOU MAY NOT ACCESS OR USE THE SERVICES. IN ADDITION, IF YOU DO NOT SIGN THE USER NOTICE AND DISCLOSURE FORM AUTHORIZING ZEALCARE TO COLLECT, USE, AND DISCLOSE YOUR PERSONAL INFORMATION, INCLUDING HEALTH-RELATED INFORMATION, AS DESCRIBED HEREIN, YOU SHOULD NOT ACCESS OR USE THE SERVICES. WE DO NOT AND WILL NOT GRANT YOU ANY RIGHT OR LICENSE TO ACCESS OR USE THE SERVICES UNLESS YOU ARE WILLING AND ABLE TO BE BOUND BY THESE TERMS.

We may change or replace any provisions of these Terms at any time and for any reason at our discretion. We will post the most recent version of these Terms on our Site and in the Apps, and any changes to these Terms will become effective when posted. You are responsible for checking

these Terms periodically for changes. If we change or replace any provisions of these Terms in a manner that meaningfully reduces your rights, we will notify you and designate a reasonable time period before the new terms will take effect. By continuing to use or access the Services after any changes come into effect, you agree to be bound by the updated Terms. If you disagree with any changes, you should stop using the Services.

If you accept these Terms but later decide that you want to terminate your account, please contact Customer Support at [info@zealcare.com](mailto:info@zealcare.com), and we will verify and complete your request.

For purposes of these Terms, “ZealCare Parties” means ZealCare and its affiliates, and each of their directors, officers, employees, agents, affiliates, representatives, service providers, suppliers, partners, sublicensees, successors, and assigns.

### **Ownership of The App, Sites, And Related Materials**

All pages within the Apps, the Sites, and any material made available for download are the sole property of ZealCare, or its licensors or suppliers, as applicable. They are protected by the United States and international copyright and trademark laws.

#### **1. Our Services**

Our Services include the ZealCare Programs, the Apps, the Sites, and all related services and features provided by or on behalf of us.

As part of the Services, we offer the ZealCare Programs, which are digitally based health care programs for people at risk for or living with certain health conditions. We offer the ZealCare Programs to certain individuals that meet the condition-specific clinical criteria that we have established for enrollment. We deliver the ZealCare Programs through the Apps and the Sites.

Our Services may include, without limitation:

- Access to information, text, graphics, photos, resources, or other materials appearing in the ZealCare Programs, in the Apps, on the Sites, or in any aspect of the Services (the “Content”), including educational Content relevant to your health goals;

- The ability to create, upload, transmit, display, and access User Submissions (as described in the section entitled “Types of User Submissions” below);
- The ability to interact with our relevant personnel, including our support teams and, for the ZealCare Programs, our health coaches (“ZealCoaches”);
- For certain of the ZealCare Programs, the ability to participate in an online community and to interact with other users of our Services in connection with your health goals;
- The ability to request your health information to share with other health care providers, friends, or family so that they can understand how you use the ZealCare Programs; and
- Access to other information about us and our products and services through the Sites and any other features, content, or applications that we may offer from time to time.

We make certain of these features available only to users who register for ZealCare Programs and only for the duration of their access to and use of ZealCare Programs.

The ZealCare Programs and the Apps are available only to individuals who:

- are at least 18 years old;
- reside, and at the time of receiving Services, are physically located, in the United States of America or any its territories;
- meet the condition-specific clinical criteria that we have established for enrollment; and
- complete the registration process that we prescribe.

To enroll in a ZealCare Program or use an App, you must register as more fully described below in the section entitled “Registration.” By accessing or using a ZealCare Program or the App, you represent that you are at least 18 years old.

We may, in our sole discretion, refuse to offer the Services to any person or entity. We may also change the criteria used to determine clinical eligibility for one or more ZealCare Programs at any time for any reason. This provision is void in jurisdictions where it is prohibited by law, and accordingly, we revoke the right to access the Services in those jurisdictions.

We reserve the right to change, replace, suspend, or discontinue the Services or any component of the Services (including, without limitation, any feature, specification, database, or content) at any time and for any reason at our discretion. We will not be liable to you for any change, replacement, suspension, or discontinuation of your rights to access or use the Services. We may also impose limitations on certain features or parts of the Services or restrict your access to part or all of the Services without notice or liability.

## **2. Limitations regarding Medicine and Medical Treatment**

THE SERVICES ENABLE USERS TO ACCESS THE CONTENT AND TO INTERACT WITH OUR HEALTH COACHES AND SUPPORT TEAMS. IN CERTAIN INSTANCES, HEALTH COACHES WITH PROFESSIONAL LICENSES IN RELEVANT CLINICAL AREAS MAY DELIVER TO YOU ASPECTS OF THE ZEALCARE PROGRAMS THAT REQUIRE SUCH A LICENSE UNDER APPLICABLE LAW (“LICENSED SERVICES”).

ASIDE FROM THOSE ASPECTS OF THE ZEALCARE PROGRAMS THAT ARE LICENSED SERVICES, WE DO NOT PROVIDE ANY MEDICAL ADVICE OR MEDICAL TREATMENT. THE CONTENT AND ANY INFORMATION PROVIDED BY OUR PERSONNEL ARE FOR INFORMATIONAL PURPOSES ONLY AND SHOULD NOT BE USED FOR THE DIAGNOSIS OR TREATMENT OF ANY MEDICAL CONDITION.

ALWAYS SEEK THE ADVICE OF YOUR PHYSICIAN OR OTHER QUALIFIED HEALTH PROVIDERS BEFORE DECIDING TO START, ALTER, OR DISCONTINUE ANY COURSE OF MEDICAL TREATMENT OR FOR ANY QUESTIONS REGARDING YOUR MEDICAL CONDITION, YOUR DIET, OR THE USE (OR FREQUENCY) OF ANY MEDICATION OR MEDICAL DEVICE. DO NOT USE THE SERVICES AS A SUBSTITUTE FOR CONSULTING WITH YOUR PHYSICIAN OR OTHER HEALTH CARE PROVIDER, AND DO NOT DISREGARD PROFESSIONAL MEDICAL ADVICE OR DELAY IN SEEKING IT BECAUSE OF ANY INFORMATION RECEIVED IN CONNECTION WITH THE SERVICES.

ZEALCARE CONTENT, INCLUDING WITHOUT LIMITATION, TEXT, COPY, AUDIO, VIDEO, PHOTOGRAPHS, ILLUSTRATIONS, GRAPHICS AND OTHER VISUALS, IS FOR INFORMATIONAL PURPOSES ONLY AND DOES NOT CONSTITUTE PROFESSIONAL MEDICAL ADVICE, DIAGNOSIS, TREATMENT OR RECOMMENDATIONS OF ANY KIND. YOU SHOULD ALWAYS SEEK THE ADVICE OF YOUR QUALIFIED HEALTH CARE PROFESSIONALS WITH ANY QUESTIONS OR CONCERNS YOU MAY HAVE REGARDING YOUR INDIVIDUAL NEEDS AND ANY MEDICAL CONDITIONS. ALL INFORMATION PROVIDED BY ZEALCARE OR IN CONNECTION WITH ANY COMMUNICATIONS SUPPORTED BY ZEALCARE, INCLUDING BUT NOT LIMITED TO COMMUNICATIONS WITH ZEALCOACHES ARE INTENDED TO BE FOR GENERAL INFORMATIONAL PURPOSES ONLY, AND IS IN NO WAY INTENDED

TO CREATE A PHYSICIAN – PATIENT RELATIONSHIP AS DEFINED BY STATE OR FEDERAL LAW. THE SERVICES ARE NOT A SUBSTITUTE FOR PROFESSIONAL MEDICAL DIAGNOSIS OR TREATMENT. RELIANCE ON ANY INFORMATION APPEARING ON THE SITES, APPS, AND PLATFORMS WHETHER PROVIDED BY ZEALCARE, ITS CONTENT PROVIDERS, MEDICAL EXPERTS, CLIENTS, VISITORS TO THE SITES, OR OTHERS, IS SOLELY AT YOUR OWN RISK.

### **3. No Emergency Services**

THE SERVICES ARE FOR NON-EMERGENCY PURPOSES ONLY. WE DO NOT CARRY EMERGENCY OR TIME-CRITICAL COMMUNICATIONS TO ANY TYPE OF HOSPITAL, LAW ENFORCEMENT AGENCY, OR ANY OTHER KIND OF EMERGENCY OR TIME-CRITICAL SERVICE. THE SERVICES DO NOT REPLACE 911, YOUR PERSONAL HEALTH CARE PROVIDERS, ADVICE NURSES, OR OTHER EMERGENCY ASSISTANCE. DO NOT ATTEMPT TO ACCESS EMERGENCY CARE THROUGH THE SERVICES OR RELY ON THE SERVICES IN ANY WAY FOR EMERGENCY ASSISTANCE. IF AT ANY TIME YOU ARE CONCERNED ABOUT YOUR CARE OR TREATMENT, OR IF YOU THINK YOU HAVE A MEDICAL EMERGENCY, CALL 911 OR GO TO THE NEAREST OPEN EMERGENCY ROOM IMMEDIATELY.

If we become aware of or contemplate an emergency, we may secure from any hospital, physician, and/or medical personnel (“Emergency Responders”) any emergency treatment that we deem necessary for your immediate care at our sole discretion. You understand and agree that, if we take any action to secure Emergency Responders on your behalf, you, and not we, will be solely responsible for payment of all medical services rendered in connection with that treatment.

### **4. Downloading the Apps from App Providers**

In order to access and use any of the Apps, you must download it from a digital distribution platform, such as the Apple App Store or Google Play (the “App Provider”). Even though you must download the App from the App Provider, these Terms are between you and us (and not the App Provider). The App Provider has no obligation to furnish any maintenance or support services regarding the Apps. The App Provider also is not responsible for addressing any claims (from you or from any third parties) that relate to any of the Apps or that relate to your possession or use of the Apps, including but not limited to any claims that relate to product liability, claims that an App does not comply with applicable legal or regulatory requirements, and claims arising under consumer protection laws or similar legislation. If a third party claims that one of the Apps or your possession or use of that App infringes that third party’s intellectual property rights, we (and not the App Provider) will be responsible for the investigation, defense, settlement, and discharge of

that claim to the extent required by these Terms. Even though these Terms are between you and us, you must also comply with any other applicable terms of service from the App Provider or other applicable third parties when you access or use the Services.

## 5. Registration

As a condition to enrolling in a ZealCare Program, you will be required to register with us. You represent and warrant that all information that you submit to us is complete, accurate, and truthful. If you allow a third party to assist you in providing any information to us, including in registering or applying for a ZealCare Program, you represent and warrant that you have reviewed that information and confirmed that it is complete, accurate, and truthful prior to its submission. You also agree to maintain the information that you submit to us (or that any third party submits on your behalf) and to update it promptly for any changes. Failure to keep your information current will constitute a breach of these Terms, which may result in immediate termination of your account.

In registering for any ZealCare Program, you will select a username ("User ID"). You are solely responsible for choosing your User ID, and you agree not to select or use as your User ID (a) the name of another person with the intent to impersonate that person, (b) a name that is subject to any rights of another person without appropriate authorization, or (c) any name that is otherwise offensive, vulgar, or obscene. We reserve the right to refuse registration of any User ID or to cancel any User ID in our sole discretion. In addition, you agree never to use another user's account without that user's express permission.

In registering for any ZealCare Program, you also will set an account password. You are solely responsible for setting your password and for maintaining its confidentiality. You also are solely responsible for all activity that occurs on your account. You agree not to share your password with any person, not to permit any person to have access to your password, and not to otherwise facilitate the use of your User ID and password by any other person. You agree to notify us in writing immediately of any unauthorized use of your password or account or any other security breach of which you become aware.

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 Sites ("User Information"), you agree not to provide any User Information that (1) is false, inaccurate,

defamatory, abusive, libelous, unlawful, obscene, threatening, harassing, fraudulent, pornographic, or harmful, or that could encourage criminal or unethical behavior, (2) violates or infringes the privacy, copyright, trademark, trade dress, trade secrets or intellectual property rights of any person or entity, or (3) contains or transmits a virus or any other harmful component. You agree not to contact other site users through unsolicited e-mail, telephone calls, mailings or any other method of communication. You represent and warrant to ZealCare that you have the legal right and authorization to provide all User Information to ZealCare for use as set forth herein and required by ZealCare.

#### **6. Consent to Receive Email and Phone Communications**

As a condition to accessing or using the ZealCare Programs, the Apps, and certain other aspects of the Services, you must provide us with your email address and phone number. By participating in the Services, you agree and consent to our communicating with you via email, SMS messages, voice calls, push notifications, and other electronic communications that relate to the Services. Please review and complete our Participant Communication Notice and Consent Form for more details. Emails that we send to you may be unencrypted and may contain personal information, including protected health information, and you agree that we may send these emails to you unless you choose to unsubscribe from emails at any time. As part of using the Services, you agree to receive all agreements, notices, disclosures, and other communications that we provide to you in electronic form, including all communications that we are required by law or these Terms to provide to you. You also acknowledge that receipt of these communications in electronic form satisfies any legal requirement that the communications be in writing. Your consent to receive electronic notices, disclosures, and other communications applies to any notice or other information that we provide in connection with your application, registration, or enrollment in a ZealCare Program and all communications relating to your access to and use of the Services.

#### **7. Your Systems and Connections to the Services**

You are responsible for obtaining, installing, operating, and maintaining all software, hardware, or other equipment (collectively, "Systems") that may be necessary for you to access and use the Services and any internet and/or wireless services via the providers of your choice (the "Connections"). This responsibility includes, without limitation, utilizing current versions of web-browsers and appropriate encryption, antivirus, anti-spyware, and internet security software. By accessing or using the Services, you demonstrate and agree that you can access information that we post electronically and receive electronic communications from us.

In connection with your access to and use of the Services, you understand and agree that:

- You are responsible for the data security of the Systems that you use (or any third party on your behalf uses) to access the Services and for the transmission and receipt of information using those Systems;
- Using open networks such as the Connections is associated with certain security, corruption, transmission error, and access-availability risks, and you expressly assume those risks;
- You have made your own independent assessment of the adequacy of the Systems and the Connections and are satisfied with that assessment; and
- We are not responsible for any errors or problems that arise from the malfunction or failure of the Systems or the Connections.

Communication lines used to transmit emails and text messages do not have the same security features that are built into the Services. By accessing or using the Services, you acknowledge that we are unable to ensure the security of information you send to us through your Systems or Connections until that information reaches us, and you acknowledge that information sent via email or text message or otherwise through your Systems or Connections may not be encrypted or secure.

WE ASSUME NO LIABILITY FOR OR RELATING TO THE DELAY, INTERRUPTION, FAILURE, CORRUPTION OF, UNINTENDED ACCESS TO, OR DISCLOSURE OF ANY INFORMATION THAT YOU OR YOUR AGENTS TRANSMIT TO US UNTIL THAT INFORMATION REACHES US. IN ADDITION, BY AGREEING TO RECEIVE EMAILS, TEXT MESSAGES, PUSH NOTIFICATIONS, OR OTHER ELECTRONIC COMMUNICATIONS FROM US, YOU AGREE TO ACCEPT ANY RISK AND DAMAGE ARISING FROM THE DISCLOSURE OF THOSE COMMUNICATIONS IN TRANSMISSION.

## 8. **Types of User Submissions**

### *Submissions from You*

In connection with your use of the Services, we may receive or collect User Submissions from you. For purposes of these Terms, "User Submissions" means any content, personal information (including without limitation, your name, contact information, activity tracking, food tracking, sleep tracking, biometric information, health readings, and other personally identifiable information or personal health information), videos, audio clips, written comments, data, text, photographs,



software, scripts, graphics, works of authorship, or other information, in each case, where supplied by or collected from a user of the Services, including any feedback or suggestions for improvements, enhancements, or error corrections (“User Submissions”).

## 9. **Terms for Third-Party Providers**

The Services may allow you to display, use, include, or make available other content, data, information, applications, services, or materials from third parties (“Third-Party Offerings”). For purposes of these Terms, your Third-Party Health Devices and other Third-Party Data Sources will be considered Third-Party Offerings. In addition, for purposes of these Terms, any entities that offer or make available Third-Party Offerings, as well as any agents or intermediaries that those entities may employ, will be considered “Third-Party Providers.”

When you use any Third-Party Offerings or interact with Third-Party Providers, YOU DO SO AT YOUR OWN RISK. To the extent that you may authorize us to link directly to any Third-Party Offerings or any Third-Party Provider, we do so solely for your convenience. To the extent that the Services contain links to third-party sites, when you access those links, you do so at your own risk. Our inclusion of any links to Third-Party Offerings or any other content from Third-Party Providers in the Services does not imply any endorsement or recommendation by us or any association with the Third-Party Providers. None of the Third-Party Offerings or Third-Party Providers are under our control. To the extent a Third-Party Provider supplies you with devices or services that are regulated by applicable law for safety, efficacy, or otherwise, we are not responsible for any failure or those supplies or devices to comply with those regulations.

We are not responsible for the manner in which Third-Party Offerings and Third-Party Providers collect, safekeep, access, or use information that you supply to them or that we supply to them at your request or instruction. You are solely responsible for reading and understanding the terms of use and privacy policies or each Third-Party Offering and Third-Party Provider before using or interacting with them. If you do not understand or do not agree to the terms of use or privacy policies of any Third-Party Offering or Third-Party Provider, you should not use or interact with those offerings or providers.

WE HEREBY DISCLAIM ALL RESPONSIBILITY AND LIABILITY FOR THE COLLECTION AND USE BY ANY THIRD-PARTY OFFERINGS OR THIRD-PARTY PROVIDERS OF ANY INFORMATION THAT YOU SUPPLY TO THEM OR THAT WE SUPPLY TO THEM AT YOUR REQUEST OR INSTRUCTION, AS WELL AS THE AVAILABILITY, PERFORMANCE, TECHNICAL FAILURES, CONTENT, ACCURACY, EFFICACY,

APPROPRIATENESS, SAFETY, LEGALITY, OR SECURITY OF THIRD-PARTY OFFERINGS AND THIRD-PARTY PROVIDERS OR ANY OTHER ASPECT OF THEIR FUNCTIONING OR INTERACTIONS. YOU AGREE TO ASSUME ALL RESPONSIBILITY AND LIABILITY FOR ANY DAMAGES, LOSS, OR OTHER HARM, WHETHER TO YOU OR TO THIRD PARTIES, THAT RESULTS FROM OR IS ALLEGED TO HAVE RESULTED FROM YOUR USE OF THIRD-PARTY OFFERINGS AND THIRD-PARTY PROVIDERS.

#### **10. Additional Terms for ZealCare-Supplied Devices**

Not applicable.

#### **12. Acceptable Use of the Services**

We provide the Services only for your own personal, non-commercial, limited use in accordance with these Terms. You are responsible for all of your use of the Services. As a condition to accessing or using the Services, you agree to abide by all applicable local, state, and federal laws, rules, and regulations in accessing and using the Services at all times, and you agree not to use the Services for any purpose that is prohibited by these Terms.

##### *Violating the Rights of Others and Abusing or Deceiving Others*

In accessing and using the Services, you agree not to take (or permit any third party to take) any action that:

- is threatening, abusive, harassing, defamatory, libelous, deceptive, fraudulent, invasive of another's privacy, tortious, unlawful, obscene, offensive, or profane;
- promotes bigotry, racism, misogyny, or ethnic or religious hatred;
- infringes any patent, trademark, trade secret, copyright, right of publicity, or other right of any other person or entity;
- constitutes unauthorized or unsolicited advertising, junk email, bulk email, or other spamming;
- involves commercial activities and/or sales that we have not authorized, such as contests, sweepstakes, lotteries, giveaways, barbers, advertisements, gifting clubs, chain letters, pyramid schemes, or other fraudulent schemes; or
- impersonates any person or entity, including any of our employees or representatives, or misuses another person's contact or account information.

### *Abusing and Disrupting the Services*

In accessing and using the Services, you also agree not to take (or permit any third party to take) any action that:

- interferes or attempts to interfere with the proper working of the Services or any activities conducted on or as a part of the Services;
- circumvents or attempts to circumvent any technological measure implemented by us or any other third party (including another user) to protect or restrict access to any aspect of the Services, computer systems or networks, accounts, or submissions from other users or third parties;
- transmits or introduces software viruses or any other computer codes, files, or programs that are designed or intended to disrupt, damage, limit, or interfere with the proper function of any software, hardware, or telecommunications equipment or to damage or obtain unauthorized access to any system, data, password, or other information of ours or any third party;
- deciphers, decompiles, disassembles, reverse engineers or otherwise attempts to derive any source code or underlying ideas or algorithms of any part of the Service, except to the limited extent applicable laws specifically prohibit such restriction;
- modifies, translates, or otherwise creates derivative works of any part of the Services;
- copies, rents, leases, distributes, or otherwise transfers any or all of the rights that you receive pursuant to these Terms;
- imposes or may impose an unreasonable or disproportionately large load on our infrastructure (or the infrastructure of any of our third-party providers);
- records, processes, or mines information about other users without their consent; or
- uses manual or automated software, devices, or other processes to “crawl” or “spider” any page of the Sites or other aspects of the Services.

You also agree not to upload, download, post, submit, or otherwise distribute or facilitate the distribution of any content on or through the Services that accomplishes the same effect or any prohibited actions described above.

We reserve the right to edit, suspend, or remove any User Submissions from the Services at any time for any reason or for no reason at all and without notice to you. We also reserve the right to access, read, preserve, and disclose any information that we reasonably believe is necessary (i) to

satisfy any applicable law, regulation, legal process, or governmental request; (ii) to enforce these Terms, including investigation of potential violations; (iii) to detect, prevent, or otherwise address fraud, security or technical issues; (iv) to respond to user support requests; or (v) to protect the rights, property, or safety of our company, our users, or the public.

### **13. Fees and Payment**

Not applicable.

### **14. Additional Intellectual Property Terms**

The Sites, the Apps, the ZealCare Programs, all other aspects of the Services, and the Content are solely ZealCare's property. Consistent with the section of these Terms entitled "Rights to and Responsibilities for User Submissions," ZealCare does not claim ownership of User Submissions, and User Submissions will not be considered Content for purposes of this paragraph only.

The Content, including without limitation the files, documents, text, photographs, images, audio, and video, and any materials accessed through or made available for use or download may not be copied, distributed, modified, reproduced, published or used, in whole or in part, except for purposes authorized or approved in writing by ZealCare.

Subject to your compliance with these Terms, we grant you a personal, non-exclusive, non-transferable, non-sublicensable, revocable, limited right to access our Sites, download and use the Apps, and use the ZealCare Programs solely for the purpose of receiving the Services. All rights in and to the the Sites, the Apps, the ZealCare Programs, all other aspects of the Services, the Content, and any intellectual property rights owned or controlled by ZealCare that we have not expressly granted in these Terms are hereby reserved and retained by us. You agree to abide by all copyright notices, information, and restrictions contained in the Services and any Content. You agree not to sell, license, rent, modify, distribute, copy, reproduce, transmit, publicly display, publicly perform, publish, adapt, edit, create derivative works from, or otherwise exploit the Sites, the Apps, the ZealCare Programs, the Services, any Content, any third-party submissions, or any other proprietary rights or other valid rights not owned by you without the consent of the respective owners or in any other way that violates ZealCare's rights or any third-party right.

To the extent the Services expressly authorize you to do so, you may download or copy the Content and other items displayed on the Services for download but solely for your personal use

in accordance with these Terms and only if you maintain all copyright, trademark, and other notices contained in those items. Copying or storing any Content for any use other than personal, noncommercial use in accordance with these Terms is expressly prohibited without prior written permission from us or from the copyright holder identified in the item's copyright notice.

ZealCare and the Z logo (the "ZealCare Marks") are trademarks of ZealCare, Inc. Other trademarks, service marks, graphics, and logos appearing on the Sites, the Apps, or other aspects of the ZealCare Programs or the Services may be the property of third parties ("Third-Party Marks"). Neither these Terms nor your use of any aspects of the Services grants you any right, title, or interest in or to, or any license to reproduce or otherwise use, the ZealCare Marks or any Third-Party Marks.

#### **15. Termination**

We may terminate your access to all or any part of the Services at any time, with or without cause, with or without notice, effective immediately, which may result in the forfeiture and destruction of certain information associated with your account. Upon termination of your right to use all or any part of our Services, all licenses and other rights granted to you by these Terms for such parts of the Services will immediately terminate.

If you wish to terminate your account, you may do so by following the instructions on the Sites or contacting our customer support team at [infor@zealcare.com](mailto:infor@zealcare.com). Any fees paid for the Services are non-refundable.

All provisions of these Terms which by their nature should survive termination shall survive termination, including, without limitation, ownership and license provisions, warranty disclaimers, indemnity provisions, and limitations of liability.

#### **16. Indemnification**

You agree to defend, indemnify, and hold ZealCare harmless from and against all third-party claims, damages, and expenses (including reasonable attorneys' fees) against or incurred by ZealCare arising out of your breach of these Terms or violation of applicable law, or access by anyone accessing the Sites using your user ID and password.

#### **17. Warranty Disclaimer**

THE CONTENT AND THE SERVICES ARE PROVIDED “AS IS” AND “AS AVAILABLE” AND ARE WITHOUT WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF TITLE, NON-INFRINGEMENT, MERCHANTABILITY, AND FITNESS FOR A PARTICULAR PURPOSE, AND ANY WARRANTIES IMPLIED BY ANY COURSE OF PERFORMANCE OR USAGE OF TRADE, ALL OF WHICH ARE EXPRESSLY DISCLAIMED. YOUR USE OF THE SERVICES IS AT YOUR OWN RISK. ZEALCARE, AND ITS DIRECTORS, EMPLOYEES, AGENTS, SUPPLIERS, PARTNERS, AND ANYONE ELSE INVOLVED IN CREATING, PRODUCING, OR DELIVERING THE CONTENT OR THE SERVICES (I) DO NOT ASSUME ANY LIABILITY OR RESPONSIBILITY FOR THE ACCURACY, APPROPRIATENESS, COMPLETENESS, OR USEFULNESS THE CONTENT OR THE SERVICES AND (II) DO NOT WARRANT THAT: (A) THE SERVICES WILL BE SECURE OR AVAILABLE AT ANY PARTICULAR TIME OR LOCATION; (B) ANY DEFECTS OR ERRORS WILL BE CORRECTED; (C) ANY CONTENT OR SOFTWARE AVAILABLE AT OR THROUGH THE SERVICES IS FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS; OR (D) THE RESULTS OF USING THE SERVICES WILL MEET YOUR REQUIREMENTS OR THE STATED PURPOSE.

YOU ASSUME TOTAL RESPONSIBILITY AND RISK FOR YOUR USE OF ZEALCARE SERVICES. ZEALCARE 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 BACKUP AND SECURITY.

PLEASE NOTE THAT SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF IMPLIED WARRANTIES, SO THE ABOVE LIMITATIONS MAY NOT APPLY TO YOU. HOWEVER, THE LIMITATIONS ABOVE WILL APPLY TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW.

You understand and agree that, in accessing or using the Services, you may be exposed to User Submissions that are offensive or objectionable. Although we reserve the right to do so, we have no obligation to monitor the Services or any User Submissions. WE DISCLAIM ANY ACTUAL OR IMPLIED DUTY TO MONITOR USER SUBMISSIONS AND SPECIFICALLY DISCLAIM ANY RESPONSIBILITY OR LIABILITY FOR ANY USER SUBMISSIONS OR FOR THE QUALITY OR ACCURACY OF OTHER INFORMATION USERS PROVIDE THROUGH USING THE SERVICES.

## **18. International Use**

ZealCare provides the Services only to individuals residing in the United States of America and its territories. ZealCare makes no representation that the Services are appropriate or available for

use in locations outside of the United States, and accessing the Services is prohibited from territories where such Services are illegal. If you access the Services from other locations, you do so at your own initiative and risk and are responsible for compliance with local laws.

#### **19. Dispute Resolution and Governing Law**

YOU EXPRESSLY AGREE THAT ANY LEGAL CLAIM, DISPUTE OR OTHER CONTROVERSY BETWEEN YOU AND ZEALCARE OR YOU AND ANY OF THE ZEALCARE PARTIES OR ANY MEDICAL GROUP OR PROVIDER ARISING OUT OF OR OTHERWISE RELATING IN ANY WAY TO ZEALCARE, THE SITES, THE CONTENT, OR ANY OTHER ZEALCARE GOODS, SERVICES OR ADVERTISING, INCLUDING CONTROVERSIES RELATING TO THE APPLICABILITY, ENFORCEABILITY OR VALIDITY OF ANY PROVISION OF THIS AGREEMENT (COLLECTIVELY "DISPUTES"), SHALL BE RESOLVED IN CONFIDENTIAL BINDING ARBITRATION CONDUCTED BEFORE ONE COMMERCIAL ARBITRATOR FROM THE AMERICAN ARBITRATION ASSOCIATION ("AAA"), RATHER THAN IN A COURT, AS DESCRIBED HEREIN. THE ARBITRATION WILL BE GOVERNED BY THE AAA'S COMMERCIAL ARBITRATION RULES AND, IF THE ARBITRATOR DEEMS THEM APPLICABLE, THE SUPPLEMENTARY PROCEDURES FOR CONSUMER RELATED DISPUTES (COLLECTIVELY "RULES AND PROCEDURES"). YOU ACKNOWLEDGE THAT YOU ARE VOLUNTARILY AND KNOWINGLY FORFEITING YOUR RIGHT TO A TRIAL BY JURY AND TO OTHERWISE PROCEED IN A LAWSUIT IN STATE OR FEDERAL COURT, EXCEPT AS EXPRESSLY PROVIDED HEREIN.

Arbitration is more informal than a lawsuit in court. Arbitration uses a neutral arbitrator instead of a judge or jury, and court review of an arbitration award is very limited. However, an arbitrator can award the same damages and relief on an individual basis that a court can award to an individual.

Payment of arbitration costs will be governed by the AAA's fee schedule, unless you are able to show that your portion will be prohibitive as compared to litigation costs, in which case ZealCare will pay as much of your arbitration costs as the arbitrator deems necessary to prevent the arbitration from being cost-prohibitive as compared to litigation costs. ZealCare also reserves the right in its sole and exclusive discretion to assume responsibility for all arbitration costs imposed by the AAA. Each party agrees to pay its own attorneys' fees and expenses unless there is a governing statutory provision that requires the prevailing party to be paid attorneys' fees and expenses.

The arbitration shall be conducted in Raleigh, North Carolina, except that, in the event Raleigh, North Carolina is not within 100 miles of your residence, the arbitrator may, in his or her

discretion, select an alternate location. The arbitrator's award shall be final and binding on all parties and may be entered as a judgment in any court of competent jurisdiction.

For more information on AAA, its Rules and Procedures, and how to file an arbitration claim, you may call AAA at 800-778-7879 or visit the AAA website at <https://www.adr.org>.

Notwithstanding anything to the contrary herein, to the extent the Dispute arises from: (a) a violation of either party's intellectual property rights in any manner; (b) any claim related to, or arising from, allegations of theft, piracy, unauthorized use or a violation of the Computer Fraud and Abuse Act; and/or (c) any claim for equitable relief; then you and ZealCare agree that a party may seek injunctive remedies (or an equivalent type of urgent legal relief) in a state or federal court in Raleigh, North Carolina, and both parties agree to submit to the personal jurisdiction of such courts in connection with such proceedings. In addition to the foregoing, either party may assert an individual action in small claims court for Disputes that are within the scope of such court's jurisdiction in lieu of arbitration as long as such action remains in such court and advances only on an individual (non-class, non-representative) basis.

ALL DISPUTES SUBJECT TO ARBITRATION UNDER THIS AGREEMENT MUST BE ARBITRATED ON AN INDIVIDUAL BASIS AND NOT ON A CLASS, COLLECTIVE OR REPRESENTATIVE BASIS. NO PARTY MAY BRING ANY CLAIM SUBJECT TO ARBITRATION PURSUANT TO THIS AGREEMENT AS A PRIVATE ATTORNEY GENERAL, IN A REPRESENTATIVE CAPACITY, OR AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED CLASS PROCEEDING. THE CLAIMS OF MORE THAN ONE CUSTOMER OR USER CANNOT BE JOINED OR CONSOLIDATED WITH THOSE OF ANY OTHER CUSTOMER OR USER. NO ARBITRATION SHALL BE CONSOLIDATED OR JOINED WITH ANY OTHER ARBITRATION. THE ARBITRATOR MAY AWARD RELIEF (INCLUDING MONETARY, INJUNCTIVE, AND DECLARATORY RELIEF) ONLY IN FAVOR OF THE INDIVIDUAL PARTY SEEKING RELIEF AND ONLY TO THE EXTENT NECESSARY TO PROVIDE RELIEF NECESSITATED BY THAT PARTY'S INDIVIDUAL CLAIM(S). If a decision is issued stating that applicable law precludes enforcement of any of this paragraph's limitations as to a particular claim or request for relief, then such claim or request for relief (and only that claim or request for relief) shall be severed from the arbitration and may be brought exclusively in the state or federal courts located in Raleigh, North Carolina, subject to the parties' respective rights to appeal the decision. All other claims or requests for relief shall be arbitrated. The parties agree that any claims or requests for relief that are severed from an arbitration may not proceed in litigation and shall be stayed until all claims between the parties remaining in arbitration are finally resolved. The parties agree to submit to the personal jurisdiction of the



federal and state courts located in Raleigh, North Carolina for purposes of resolving any claims or requests for relief severed from arbitration pursuant to this paragraph.

You can opt out of the provisions of this Agreement that require the arbitration of Disputes within 30 days of the date that you first agree to any version of this Agreement that requires arbitration of disputes with ZealCare. To opt out, you must send your name, residence address, and email address together with a clear statement that you want to opt out of the requirement to arbitrate disputes with ZealCare to: ZealCare, Inc., ATTN: Arbitration Opt-Out, P.O. Box 13169 Research Triangle Park, NC 27709.

Before you commence arbitration of a Dispute, you must provide us with a written Notice of Dispute that includes your name, residence address, username (if applicable) and email address associated with your User account (if applicable), a detailed description of the Dispute, and the relief you seek. Before we commence arbitration of a Dispute against you, we will provide a written Notice of Dispute to you with a detailed description of the Dispute and the relief we seek. Any Notice of Dispute you send to us should be mailed to ZealCare, Inc., ATTN: Dispute Notice, P.O. Box 13169 Research Triangle Park, NC 27709. If we are unable to resolve a Dispute within 30 days after the applicable Notice of Dispute is received, either party may commence arbitration. Notwithstanding anything to the contrary in this Agreement, if we make any future material modification to any provisions of this Agreement that govern the arbitration or resolution of Disputes, such changes will not apply to any Dispute between you and us for which either party had previously provided a written Notice of Dispute to the other in accordance with this paragraph. Further, if we make any future material changes to the provisions of this Agreement that govern the arbitration or resolution of Disputes, you may reject such changes by sending a written notice of your rejection decision to us at ZealCare, Inc., ATTN: Arbitration, P.O. Box 13169 Research Triangle Park, NC 27709. Opt-Out within 30 days of the effective date of such modifications.

These Terms are governed by the laws of the state of North Carolina without regard to conflict of law principles. You and ZealCare submit to the personal jurisdiction of the state courts and federal courts located within Raleigh, North Carolina for resolution of any lawsuit or court proceeding permitted under these Terms.

## **20. Integration and Severability**

These Terms, constitute the entire agreement between you and us with respect to the Services and supersede all prior or contemporaneous communications and proposals (whether oral, written, or electronic) between you and us with respect to the Services. If any provision of these Terms is found to be unenforceable or invalid, that provision will be limited or eliminated to the minimum extent necessary so that these Terms will otherwise remain in full force and effect and enforceable. The failure of either party to exercise in any respect any right provided for in these Terms shall not be deemed a waiver of any further rights under these Terms.

## **21. Miscellaneous**

We shall not be liable for any failure to perform obligations hereunder to the extent that failure results from any cause beyond our reasonable control, including, without limitation, natural disasters and mechanical, electronic, or communications failures or degradation.

These Terms are personal to you and are not assignable, transferable, or sublicensable by you except with our prior written consent. We may assign, transfer, or delegate any or all of our rights and obligations under these Terms without consent. Our licensors and App Providers may be entitled to enforce these Terms as third-party beneficiaries; otherwise, there are no other third-party beneficiaries to these Terms. No agency, partnership, joint venture, or employment relationship is created as a result of these Terms. All notices under these Terms will be in writing and will be deemed to have been duly given (a) when received, if personally delivered or sent by certified or registered mail, return receipt requested; (b) when receipt is electronically confirmed, if transmitted by facsimile or e-mail; or (c) the day after it is sent, if sent for next day delivery by recognized overnight delivery service.

## **22. Digital Millennium Copyright Act Policy**

We disclaim any responsibility or liability for copyrighted materials posted on the Sites. If you believe that your work has been copied in a manner that constitutes copyright infringement, please follow the procedures set forth below.

ZealCare respects the intellectual property rights of others and expects its users to do the same. In accordance with the Digital Millennium Copyright Act ("DMCA"), we will respond promptly to

notices of alleged infringement that are reported to ZealCare's Designated Copyright Agent, identified below.

#### Notices of Alleged Infringement for Content Made Available on the Sites

If you are a copyright owner, authorized to act on behalf of one, or authorized to act under any exclusive right under copyright, please report alleged copyright infringements taking place on or through our Sites by sending us a notice complying with the following requirements.

1. Identify the copyrighted works that you claim have been infringed.
2. Identify the material or link you claim is infringing (or the subject of infringing activity) and that access to which is to be disabled, including at a minimum, if applicable, the URL of the link shown on the Sites where such material may be found.
3. Provide your mailing address, telephone number, and, if available, email address.
4. Include both of the following statements in the body of the notice:  
"I hereby state that I have a good faith belief that the disputed use of the copyrighted material is not authorized by the copyright owner, its agent, or the law (e.g., as a fair use)."  
"I hereby state that the information in this notice is accurate and, under penalty of perjury, that I am the owner, or authorized to act on behalf of the owner, of the copyright or of an exclusive right under the copyright that is allegedly infringed."
5. Provide your full legal name and your electronic or physical signature.  
Deliver this notice, with all items completed, to [info@zealcare.com](mailto:info@zealcare.com).

#### 23. **Nondiscrimination Statement and Language Assistance**

We comply with applicable civil rights laws and do not discriminate on the basis of race, color, national origin, age, disability, limited English proficiency or sex. We do not exclude people from receiving any ZealCare Programs or treat individuals differently because of race, color, national origin, age, disability, or sex.

If you believe that we have discriminated in any way on the basis of race, color, national origin, age, disability, or sex, you can file a grievance with contacting: ZealCare, Legal Department, P.O. Box 13169 Research Triangle Park, NC 27709 or by email to [info@zealcare.com](mailto:info@zealcare.com). You can file a grievance by mail or email.

#### 24. **Force Majeure**

We will not be deemed to be in breach of these terms or liable for any breach of these Terms due to any event or occurrence beyond our reasonable control, including without limitation, acts of God, terrorism, war, invasion, failures of any public networks, electrical shortages, earthquakes or floods, civil disorder, strikes, fire or other disaster.

#### 25. **Right to Modify Revisions; General**

ZealCare reserves the right to modify these Terms at any time, effective upon posting. Any use of Services after such changes will be deemed an acceptance of those changes. You agree to review the Terms each time you access the Services so that you may be aware of any changes to these Terms. You should, therefore, periodically visit this page to review the current Terms, so you are aware of any such revisions to which you are bound. Certain provisions of these Terms may be superseded by expressly designated legal notices or terms located on particular pages within the Sites.

ZealCare reserves the right, in its sole discretion, to terminate your access to all or part of the Sites or Services, with or without cause, and with or without notice. In the event that any of the Terms 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 shall otherwise remain in full force and effect. These Terms constitute the entire agreement between ZealCare and you pertaining to the subject matter hereof.

#### 26. **Contact**

You may contact us by email at [info@zealcare.com](mailto:info@zealcare.com) or by direct mail at

ZealCare Inc  
P.O. Box 13169  
Research Triangle Park, NC 27709