

Healthy Monkey, LLC d/b/a Coherent Health

Terms of Use

These Terms of Use, together with the Privacy Policy, Acceptable Use Policy and any other documents they incorporate, set forth the terms and conditions upon which **Healthy Monkey, LLC d/b/a Coherent Health** (“**We**”, “**Us**”, or “**Company**”) provides, and upon which you (“**You**,” “**Your**”) and your employees or subcontractors, if applicable, (each, “**Your User**”) may access and use the web site, mobile application and other related services provided or operated by Company (collectively, the “**Services**”), including but not limited to any content and functionality offered through the Services. (“**Terms of Use**” or “**Agreement**”). You agree to be responsible for all uses of the Services by Your Authorized Users as defined below.

PLEASE READ THE TERMS OF USE CAREFULLY BEFORE YOU START TO USE THE SERVICES. THESE TERMS OF USE SET FORTH YOUR RIGHTS AND RESPONSIBILITIES CONCERNING THE SERVICES. THESE TERMS OF USE ALSO; (I) CONTAIN PROVISIONS THAT GOVERN HOW CLAIMS ARE RESOLVED, AND (II) AN AGREEMENT TO ARBITRATE, WHICH WILL, WITH LIMITED EXCEPTION, REQUIRE YOU TO SUBMIT CLAIMS YOU HAVE AGAINST US OR OUR AGENTS TO BINDING AND FINAL ARBITRATION. IF YOU DO NOT UNDERSTAND THESE TERMS OF USE OR DO NOT AGREE TO THESE TERMS OF USE DO NOT AGREE TO THESE TERMS OF USE OR OTHERWISE USE ANY SERVICES PROVIDED BY COMPANY.

IN ORDER TO USE THE SERVICES, EACH AUTHORIZED USER MUST BE AT LEAST 13 YEARS OF AGE AND LOCATED IN THE UNITED STATES. BY USING THE SERVICES, YOU REPRESENT ALL AUTHORIZED USERS; (I) ARE AT LEAST 13 YEARS OF AGE, AND (II) ARE LOCATED IN THE UNITED STATES. FURTHER, YOU ACCEPT AND AGREE TO BE BOUND AND ABIDE BY THESE TERMS OF USE. NO AUTHORIZED USER IS PERMITTED TO ACCESS THE SERVICES IF THEY ARE NOT AT LEAST 13 YEARS OLD OR IF YOU ARE LOCATED OUTSIDE OF THE UNITED STATES. If an Authorized User, is thirteen or older, but under the age of eighteen or other age of majority in their state of residence (in other words, considered a minor), the Authorized User’s parent or legal guardian must agree to these Terms of Use on their behalf and permit them to use the Services.

IF YOU ARE A PARENT OR GUARDIAN ACCEPTING THESE TERMS ON BEHALF OF A MINOR YOU ALSO REPRESENT AND WARRANT THAT YOU HAVE READ AND AGREE TO THESE TERMS ON BEHALF OF THE MINOR AND ON YOUR OWN BEHALF. AS A PARENT OR GUARDIAN OF A MINOR USING THE SERVICES YOU ALSO ACKNOWLEDGE THAT YOUR ACCESS AND USE OF THE SERVICES ARE SUBJECT TO THIS AGREEMENT.

WE RESERVE THE RIGHT TO CHANGE, ADD OR REMOVE PORTIONS OF THESE TERMS OF USE, THE PRIVACY POLICY, AND ANY DOCUMENTS INCORPORATED HEREIN AT ANY TIME AND AT OUR SOLE DISCRETION. YOUR CONTINUED USE OF THE SERVICES FOLLOWING THE POSTING OF ANY CHANGES MEANS THAT YOU ACCEPT AND AGREE TO SUCH CHANGES. IT IS YOUR RESPONSIBILITY TO CHECK THESE TERMS OF USE PERIODICALLY FOR CHANGES.

Definitions.

“Acceptable Use Policy” means the Acceptable Use Policy attached hereto.

“Authorized User(s)” means an individual who is bound by the terms of this Agreement with Company, either by directly agreeing to it or by being Your employee or subcontractor, and therefore bound by it.

“Business Associate Agreement,” “BAA” means a HIPAA-compliant business associate agreement entered into between You and Company..

“Confidential Information” means information disclosed by a party (“Disclosing Party”) to the other party (“Receiving Party”), whether orally or in writing, that is designated as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure. Confidential Information does not include any information that (i) was known to the Receiving Party prior to its disclosure by the Disclosing Party without breach of any obligation owed to the Disclosing Party; (ii) is or becomes generally known to the public without breach of any obligation owed to the Disclosing Party, (iii) is received from a third party without breach of any obligation owed to the Disclosing Party, or (iv) was independently developed by the Receiving Party without access to the Disclosing Party’s Confidential Information.

“Content” means information either; (i) created by Company and made available to Authorized Users through the Services, or (ii) obtained by Company from publicly available sources or third-party content providers and made available to Authorized Users through the Services.

“Documentation” means any documentation (online or otherwise) made available by Company to You describing the Services or any support provided for the Services.

“HIPAA” means the Health Insurance Portability and Accountability Act of 1996, as amended, and all regulations implemented thereunder.

“Malware” means code, files, scripts, agents or programs intended to do harm, including, for example, viruses, worms, time bombs and Trojan horses.

“Personally Identifiable Information” or **“PII”** has the meaning set forth in the applicable laws and regulations concerning data privacy.

“Protected Health Information” or **“PHI”** has the meaning set forth under HIPAA.

“Services” means Company services that are ordered by You (or provided to You under a free trial), and made available online by Company, including associated offline or mobile components, as described in the Documentation. “Services” exclude Content and Third-Party Materials.

“Technology” means our web site, mobile application, FTP or other file transfer sites, computer programs, and other technological means of providing Services or communicating with You.

“Third-Party Materials” means; (i) a Web-based, mobile, offline or other software application, technology or functionality, or (ii) any third party device or product, which is made available to Authorized Users and interoperates with, or is used by an Authorized User, in connection with a Service.

“User Account” means an account with Company set up by an Authorized User and accepted by Company.

“Your (User) Data” means electronic data and information submitted by or for You or an Authorized User to the Services, excluding Content and Third-Party Applications. If Company has entered into a BAA with You, Your Data may include PHI or PII.

1. Registration and Account Responsibility.

Registration. To become an Authorized User, You or Your Users are required to register for the Services and provide certain information about You or Your User, as applicable, and their practice. We will validate your information, and if so validated, establish an Authorized User Account on your behalf which You will thereafter use to access and use the Services. All information we collect about You in connection with the Services is subject to our then current [Privacy Policy](#). We also track certain Authorized User interactions with our Technology. This may include viewing and navigating our Technology, the performance of our Technology, and the frequency and duration of an Authorized User’s use of our Technology. You will, and You warrant that Your Users will, provide Company with accurate, complete, and updated registration information. Failure to do so shall constitute a breach of these Terms, which may result in immediate termination of your account. Neither You nor Your Users shall use a false name, e-mail address or phone number or otherwise enter information with the intent to impersonate another person. You warrant, on behalf of You and Your Users, that all information You and Your Users submit to us is true and correct.

By using the Services, each Authorized User consents to all actions taken by us with respect to Your information in compliance with the Privacy Policy, including being contacted via email, text message (SMS), phone or other electronic means.

An Authorized User Account may only be used for such Authorized User’s practice and will require a username and password. You are responsible for all activities that occur under Your or Your Users’ accounts. You shall: (i) have sole responsibility for the accuracy, quality, integrity, legality, reliability, and appropriateness of all data that an Authorized User provides; (ii) maintain the confidentiality of password and user account information; (iii) use commercially reasonable efforts to prevent unauthorized access to, or use of, the Services and notify Company promptly of any such unauthorized use; and (iv) comply with all applicable local, state, and federal laws in using the Services.

General. Subject to the terms and conditions of this Agreement (including the Privacy Policy and Acceptable Use Policy), and during the term of this Agreement, Company grants each Authorized User a non-exclusive and non-transferable right to access and use the Services in accordance with the terms of this Agreement, and any Documentation made available to you by Company solely for purposes of the permitted use of the Services. The Services are limited to Authorized Users in the United States. The Services are enabled by technology, software and certain Content delivered electronically. Any use of the Service in breach of this Agreement, or that in our judgment threatens the security, integrity, performance, or availability of the Service, may result in immediate suspension of the Service, however we will use commercially

reasonable efforts under the circumstances to provide You with notice and an opportunity to remedy such violation or threat prior to such suspension. Other than as expressly set forth in this Agreement, no license or other rights in or to the Services are granted to any Authorized User, and all such licenses and rights are hereby expressly reserved.

Company has designed the Services to assist Authorized Users with managing their professional practices. Unless otherwise agreed upon in a BAA, We do not represent or warrant that the Services shall be compliant with any law, rule, or regulation, and you are solely responsible to ensure that an Authorized User's use of the Services is in accordance with federal, state, territorial, or local law, ordinance, rule, or regulation. We do not warrant the appropriateness or effectiveness of the Services or the Technology. If You and Company enter into a BAA, the provisions of that BAA shall govern the use, maintenance, and storage of PHI. If no BAA is entered into between You and Company, Company disclaims any liability that may accrue from You, Your Users, or any third-party based upon an assertion that Company violated HIPAA, and You agree to indemnify, defend, and hold Company harmless from any claim based upon or referencing HIPAA.

Term and Termination. The term of this Agreement will begin upon Your successful registration for the Services and will continue indefinitely unless terminated by either party as permitted herein.

You may terminate this Agreement by sending written notice to Us at the address set forth below. Should You terminate before the end of any pre-paid period, You shall not receive a refund of fees for the period for which You prepaid. You acknowledge and agree that Company may suspend or terminate an Authorized User's access to the Services if such Authorized User (a) breaches any term of this Agreement, or (b) engages in any conduct that Company determines in its discretion may have an adverse effect on Company or its reputation. Company may also terminate Your access to the Services at any time for its convenience; and in such an event of a termination for convenience (but not upon a termination due to your breach of this Agreement), Company shall refund any amounts prepaid by You for Services paid for but not received as of the date of termination for convenience.

Upon termination, no Authorized User will continue to have access to the Services, Technology, or other Content provided through the Services. In addition to termination, Company reserves the right to pursue any and all remedies available to it in the event of such a breach or conduct.

Upon any termination, You will have the opportunity for a period of 90 days to retrieve any of Your and Your User's data (and our obligations are only to use commercially reasonable efforts to retrieve such data, subject to any standard fees we may charge for our time in retrieving your specific data). To retrieve such data please send an email to support@mycoherenthealth.com. We reserve the right to retain and store portions of such data in our ordinary course backup and archival processes, and as necessary to comply with applicable laws, rules, or regulations.

Fees. Services fees for the Term will be paid in accordance with your registration confirmation. You acknowledge that access to the Services may be suspended until payment is received in full. All Service Fees are exclusive of any tax, levy, or similar governmental charge that may be

assessed. You are solely responsible for all taxes based upon the provision, sale or use of the Services, excluding any taxes based on Company's net income. All Services fees shall be due and payable upon the date specified in the applicable invoice. Fees that are more than thirty (3) days past due shall accrue interest at the rate of one and one-half percent (1.5%) per month until paid. In our discretion, we may suspend Services or terminate this Agreement if Your fees are not paid in a timely manner.

Intellectual Property Ownership. Except for the limited license and use rights expressly granted to you under this Terms of Use during the Term, all title to and the rights in the Services, including any and all Technology, procedures, processes, software and content, including ownership rights to patents (registrations, renewals, and pending applications), copyrights, trademarks, trade secrets, Company's or third party hardware, other technology, any derivatives of and all goodwill associated with the foregoing is the exclusive property of Company and/or third parties. Each Authorized User grants Us a worldwide, perpetual, irrevocable, royalty-free license to use, modify and incorporate into the Services any suggestion, enhancement request, recommendation, correction or other feedback provided by such Authorized User relating to the operation of the Services.

Trademarks. Trademarks, service marks, graphics, and logos used in connection with the Services are the trademarks of their respective owners. No Authorized User is granted any right or license with respect to any of the trademarks mentioned above and any use of such trademarks. Each Authorized User acknowledges and agrees that all text, graphics, photographs, trademarks, logos, visual interfaces, artwork, computer code and all other related content contained on the Services are owned by Company or third parties and are protected by trade dress, copyright, patent and trademark laws, and various other intellectual property rights and unfair competition laws. Any reproduction, publication, further distribution, or public exhibition of materials provided through the Services, in whole or in part, is strictly prohibited. Except as expressly provided in these Terms of Use, no part of the Services and no content may be copied, reproduced, republished, uploaded, posted, publicly displayed, encoded, translated, distributed or transmitted in any way (including "framing" or "mirroring") to any other computer, server, Services or other medium for publication or distribution or for any commercial enterprise, without the express prior written consent of Company.

Open Source. The Service may contain certain applications and portions of applications which are provided under terms and conditions which are different from this Agreement (such as open source or community source), or which require us to provide an Authorized User with certain notices and/or information ("Excluded Code"). We will identify such Excluded Code in a text file or about box or in a file or files referenced thereby (and shall include any associated license agreement, notices and other related information therein), or the Excluded Code will contain or be accompanied by its own license agreement. Use of the Excluded Code will be subject to the terms and conditions of such other license agreement solely to the extent such terms and conditions are inconsistent with the terms and conditions of this Agreement or are required by such other license agreement. By using or not uninstalling such Excluded Code after the initial installation of the Excluded Code, each Authorized User acknowledges and agrees to all such license agreements, notices and information.

Confidentiality. By accessing the Services, Authorized Users will have access to certain of our Confidential Information, including but not limited to methods, techniques, programs, devices and operations and any other information we designate as our Confidential Information. Your Confidential Information includes Your Data but does not include anonymized information (including, without limitation, PHI that has been de-identified in accordance with HIPAA requirements and which, upon such de-identification, will be deemed to be the property of Company) collected from You or Authorized Users. Company's Confidential Information includes the non-public terms and conditions of this Agreement, as well as the price You pay for the Services. You, Your Users and Company each agree to: (i) only use Confidential Information as explicitly permitted in this Agreement; (ii) not disclose any Confidential Information of the Disclosing Party to any third party; and (iii) not disclose or use Confidential Information following the termination of the Service subscription, unless otherwise explicitly permitted herein (or in the Privacy Policy). Each party agrees to take reasonable efforts to protect the Disclosing Party's Confidential Information from disclosure to third parties, except as explicitly permitted herein, and apply measures consistent with those applied to the Receiving Party's protection of its own Confidential Information. Upon the Disclosing Party's request, at any time, the Receiving Party agrees that it will promptly return or destroy all of copies of Confidential Information to the Disclosing Party except for information periodically stored as part of a standard back-up or archival procedure, or as required by law. The Disclosing Party shall be entitled to injunctive relief in the event of any unauthorized use or disclosure, whether or not intentional, of its Confidential Information. The Receiving Party may disclose Confidential Information of the Disclosing Party to the extent compelled by law to do so, provided that the Receiving Party notifies the Disclosing Party in advance of the compelled disclosure (to the extent legally permitted) and reasonable assistance in order to permit the Disclosing Party to contest such disclosure.

You may request that Company releases and/or exchanges information with other related entities. Such request must be in a writing executed by You. You shall be responsible for the propriety and legality of any such exchange and shall indemnify and hold harmless Company from any liabilities, fines, or regulatory actions arising from such releases and/or exchanges.

Company's Technology and website are encrypted using industry-standard encryption technology. You and Your Users agree that Company will not be held responsible for any breach of confidential information if You communicate confidential or private information via physical document, or unencrypted email, text, or phone messages. You agree that You will continuously scan Your systems for Malware and shall not connect to the Services if you have discovered Malware on your devices and have not remediated such Malware.

Non-Confidential Information. Subject to any applicable terms and conditions set forth in our Privacy Policy, any other communication or material that an Authorized User sends to us through the Services, such as any questions, comments, suggestions or the like, is and will be deemed to be non-confidential and We will have no obligation of any kind with respect to such information.

Content. The information presented on or through the Services is made available to the Authorized Users solely for general information purposes. We do not warrant the accuracy, completeness or usefulness of this information. Any reliance an Authorized User places on such information is strictly at their own risk and You shall be solely responsible for any liabilities arising from an Authorized User's dissemination of such information.

Service Access and Changes. We reserve the right to withdraw or amend these Services or materials we provide in connection with the Services at any time in our sole discretion. We will not be liable if for any reason all or any part of the Services are unavailable at any time or for any period. From time to time, we may restrict access to some or all of the Services. We also may update the Services and/or Content from time to time. While we make reasonable efforts to maintain current information, we cannot guarantee that the Services or Content is complete or up-to-date.

Third-Party Materials. Any and all Third-Party Materials or services provided, made available, linked to, or otherwise accessible through the Services is provided solely as a convenience to You and Your Users and not under our control. Company does not endorse, recommend, or otherwise make any representations or warranties with respect to any Third-Party Materials. Company does not have any responsibility or liability to any Authorized User for any Third-Party Materials which they access, and they use it at their own risk. Further, You and Your Users agree to comply with any and all terms and conditions applicable to the use of Third-Party Materials and otherwise ensure that You have obtained all rights, licenses, and clearances that may be necessary to use such Third-Party Materials. We encourage You to review the terms of use and privacy policies applicable to such Third-Party Materials.

Warranty and Remedy. We warrant that the Services will substantially perform in accordance with the Documentation. We provide no warranty with respect to any Content. In the event of any breach of this warranty, (i) You must promptly notify us in writing, and (ii) Your sole remedy and our sole obligation shall be to refund any Fees paid by You (excluding any Fees paid on Your behalf) during the period of time the Services were not provided as warranted, up to a maximum of 6 months of Fees paid by You. You represent and warrant that You have obtained adequate consent, consistent with laws that apply to Your business, from each of Your customers prior to sharing Your customer's data with Company, and You represent further that You will promptly notify Company if such consent is withdrawn by your customer so that we can take appropriate action with regard to such customer's data.

Disclaimer. EXCEPT AS EXPRESSLY PROVIDED IN THE WARRANTY IMMEDIATELY ABOVE, COMPANY MAKES NO WARRANTY OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, AND SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW. IN ADDITION, COMPANY; (1) DOES NOT WARRANT THAT ACCESS TO OR USE OF THE SERVICE WILL BE UNINTERRUPTED OR ERROR FREE, AND (2) MAKES NO WARRANTY AS TO THE ACCURACY, INTEGRITY OR COMPLETENESS OF ANY CONTENT OR THAT CONTENT PROVIDED IS APPLICABLE TO, OR APPROPRIATE FOR YOUR PARTICULAR CONDITION OR USE OUTSIDE OF THE UNITED

STATES. EXCEPT AS OTHERWISE SET FORTH HEREIN, THE SERVICES, CONTENT AND THIRD-PARTY MATERIALS ARE PROVIDED "AS IS," EXCLUSIVE OF ANY WARRANTY WHATSOEVER. Some states do not allow the exclusion or limitation of certain warranties, so the above limitation or exclusion may not apply to You.

Limitation of Liability. Except where prohibited by law, in no event will Company BE LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES THAT RESULT FROM YOUR OR YOUR USER'S USE OF OR INABILITY TO USE THE SERVICES, INCLUDING BUT NOT LIMITED TO RELIANCE BY YOU ON ANY INFORMATION OBTAINED FROM THE SERVICES. THE FOREGOING LIMITATION OF LIABILITY WILL APPLY IN ANY ACTION, WHETHER IN CONTRACT, TORT OR ANY OTHER CLAIM, EVEN IF AN AUTHORIZED REPRESENTATIVE OF THE COMPANY HAS BEEN ADVISED OF OR SHOULD HAVE KNOWLEDGE OF THE POSSIBILITY OF SUCH DAMAGES. If, notwithstanding the other provisions of these Terms of Use, Company is found to be liable to You or Your Users for any damage or loss which arises out of or is in any way connected with the use of the Services, Company's liability will in no event exceed the amount of fees paid by for the Services during the preceding three (3) month period. Some jurisdictions do not allow limitations of liability, so the foregoing limitation may not apply to You.

Indemnity. You, on behalf of Yourself and Your Users, agree to defend, indemnify, and hold Company, its officers, directors, partners, employees, contractors, agents, licensors, and suppliers, harmless from and against any claims, actions or demands, liabilities and settlements including without limitation, reasonable legal and accounting fees, resulting from, or alleged to result from, (i) any claim by a third party that Your Data infringes any intellectual property rights of such third party, and (ii) any claim by a customer of Yours based upon Your failure to obtain, or failure to promptly notify us of a revocation of consent to use such customer's data, and (iii) any violation by an Authorized User of applicable law, (iv) any Third-Party Materials and (v) You or Your User's use or reliance upon the Services.

Void Where Prohibited. The Services are intended solely for users in the United States. The Services are not available to all persons or in all geographic locations. Any offer for any feature, product or service made on the Services is void where prohibited.

Governing Law. You, on behalf of Yourself and Your Users, agree that this Agreement will be governed by the laws of the United States and by the laws of the State of New York without regard to its conflicts of law provisions. To the extent not subject to the Dispute Resolution and Arbitration provisions below, all claims, suits, actions, or proceedings hereunder must be brought in the appropriate state or federal court located in New York County, New York.

Dispute Resolution and Arbitration

PLEASE READ THIS CAREFULLY AS IT AFFECTS YOUR RIGHTS. We want You to be happy with Company's Services. If, for some reason, we cannot resolve any concern You may have with our Services to Your satisfaction, You, on behalf of Yourself and Your Users, and Company each agree to try to resolve those disputes in good faith after You provide written notice of the dispute as set forth below. If we cannot resolve the dispute, You, on behalf of Yourself and

Your Users, and Company agree that we will resolve the dispute through individual binding arbitration.

Arbitration and Waiver of Class Action. Instead of suing in court, You, on behalf of Yourself and Your Users, and Company agree to arbitrate all Disputes (as defined below) in accordance with the provisions set forth in the section entitled “Arbitration Terms, Process, Rules and Procedures” below. All arbitrations shall be on an individual, non-representative, basis. You, on behalf of Yourself and Your Users, agree that, by entering into this Agreement, You, on behalf of Yourself and Your Users, and Company are waiving the right to a trial by jury or to participate in a class action or representative action. This agreement to arbitrate is intended to be broadly interpreted. In arbitration, there is no judge or jury. Instead, a neutral third-party arbitrator resolves Disputes in a less formal process than in court. In arbitration, there is limited discovery, and a court review of the arbitrator’s decision is limited. However, just as a court would, the arbitrator must follow the Terms of Use and can award damages and relief, including any attorneys’ fees authorized by law.

“Disputes” include, but are not limited to, any claims or controversies against each other in any way related to or arising out of our Services, these Terms of Use, or Acceptable Use Policy or our Privacy Policy, even if the claim arises after Services have terminated. Disputes also include, but are not limited to, claims that: (a) You or an authorized or unauthorized user of the Services bring against our employees, agents, affiliates, or other representatives; (b) You or an authorized or unauthorized user of the Services bring against a third party that are based on, relate to, or arise out of in any way our Services or these Terms of Use; or (c) that Company brings against You or an authorized or unauthorized user of the Services. Disputes also include, but are not limited to, (i) claims in any way related to or arising out of any aspect of the relationship between You or an authorized or unauthorized user of the Services and Company, whether based in contract, tort, statute, fraud, misrepresentation, advertising claims or any other legal theory; (ii) claims that arose before this agreement or out of a prior agreement with Company; and/or (iii) claims that arise after the termination of these Terms of Use.

Dispute Notice and Dispute Resolution Period. Before initiating an arbitration or a small claims matter, You, on behalf of Yourself and Your Users, and Company each agree to first provide to the other a written notice (“Notice of Dispute”), which shall contain: (a) a written description of the problem and relevant documents and supporting information; and (b) a statement of the specific relief sought. A Notice of Dispute to Company should be sent to:

Healthy Monkey, LLC d/b/a Coherent Health
591 Warburton Avenue, #174
Hastings on Hudson, NY 10706
Attn: Chief Executive Officer

The Company will provide a Notice of Dispute to You by email to the address provided in Your user account.

The Company will provide You a designated representative to work with to try to resolve Your Dispute to Your satisfaction. You, on behalf of Yourself and Your Users, and Company agree to make attempts to resolve the Dispute prior to commencing an arbitration or court action. If an agreement cannot be reached within forty-five (45) days of receipt of the Notice of Dispute, You, on behalf of Yourself and Your Users, or Company may commence an arbitration or court proceeding.

Arbitration Terms, Process, Rules and Procedures. (1) Unless You and Company agree otherwise, the arbitration will be conducted by a single, neutral arbitrator and will take place in New York County, New York. The arbitration will be governed by either: (a) rules that we mutually agree upon; or (b) the JAMS Comprehensive Arbitration Rules & Procedures (the “JAMS Rules”), as modified by this agreement to arbitrate, including the rules about the filing, administration, discovery and arbitrator fees. The JAMS rules are available on its website at www.jamsadr.com. Notwithstanding any JAMS Rule to the contrary or any other provision in arbitration rules chosen, by agreement, to govern the arbitration, we each agree that all issues regarding the Dispute are delegated to the arbitrator to decide.

(2) The Federal Arbitration Act (“FAA”) applies to this Agreement and arbitration provision. We each agree that the FAA’s provisions—not state law—govern all questions of whether a Dispute is subject to arbitration. To the extent that this agreement to arbitrate conflicts with the JAMS Policy on Consumer Arbitrations Pursuant to Pre-Dispute Clauses Minimum Standards for Procedural Fairness (the “Minimum Standards”), the Minimum Standards in that regard will apply. However, nothing in this paragraph will require or allow You or Company to arbitrate on a class-wide, representative or consolidated basis.

(3) 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. YOU, ON BEHALF OF YOURSELF AND YOUR USERS, AND THE COMPANY AGREE THAT EACH MAY BRING CLAIMS AGAINST THE OTHER ONLY IN AN INDIVIDUAL CAPACITY, AND NOT AS A CLASS MEMBER IN ANY PUTATIVE CLASS OR REPRESENTATIVE PROCEEDING. Further, unless both You, on behalf of Yourself and Your Users, and Company expressly agree otherwise, the arbitrator may not consolidate more than one person’s claims and may not otherwise preside over any form of a representative or class proceeding.

(4) We each are responsible for our respective costs, including counsel, experts, and witnesses. The parties will each be responsible for one-half of any filing or case management fees associated with the arbitration and the professional fees for the arbitrator’s services.

(5) An arbitrator’s award will be a written statement of the disposition of each claim and will also provide a concise written statement of the essential findings and conclusions which form the basis of the award. The arbitrator’s decision and award are final and binding, with some limited court review under the FAA, and judgment on the award may be entered in any court with jurisdiction.

The arbitrator will write an award explaining the decision and the findings and conclusions supporting it.

No Trial by Jury and No Class Action. IF FOR ANY REASON A CLAIM ARISING OUT OF OR RELATING TO THIS AGREEMENT IN ANY WAY PROCEEDS IN COURT RATHER THAN IN ARBITRATION, REGARDLESS OF WHETHER THE CLAIM IS AN ACTION, COUNTER-CLAIM OR ANY OTHER COURT PROCEEDING, WE EACH AGREE THAT TO THE EXTENT ALLOWED BY LAW, THERE WILL NOT BE A JURY TRIAL OR CLASS ACTION AND WE EACH UNCONDITIONALLY (1) WAIVE ANY RIGHT TO TRIAL BY JURY AND (2) WAIVE ANY RIGHT TO PURSUE DISPUTES ON A CLASS WIDE BASIS, INCLUDING JOINING A CLAIM WITH THE CLAIM OF ANY OTHER PERSON OR ENTITY OR ASSERT A CLAIM IN A REPRESENTATIVE CAPACITY ON BEHALF OF ANYONE ELSE IN ANY OTHER PROCEEDING.

No Waiver. The failure of Company to insist on or enforce strict performance of these Terms of Use will not be construed as a waiver by Company of any provision or any right it has to enforce these Terms of Use, nor will any course of conduct between Company and You or any other party be deemed to modify any provision of these Terms of Use.

Severability. The provisions of these Terms of Use are severable. The invalidity, in whole or in part, of any provision of these Terms of Use will not affect the validity or enforceability of any other of its provisions. If any of the provisions of these Terms of Use are held by a court or other tribunal of competent jurisdiction to be void or unenforceable, such provisions will be limited or eliminated to the minimum extent necessary and replaced with a valid provision that best embodies the intent of these Terms of Use, so that these Terms of Use will remain in full force and effect.

Export Compliance. The Services, Content, other technology We make available, and derivatives thereof may be subject to export laws and regulations of the United States and other jurisdictions. Each party represents that it is not named on any U.S. government denied-party list. You shall not use the Service in violation of any U.S. export law or regulation.

Assignment. Neither You, nor any of Your Users, may assign any of Your rights or obligations hereunder, whether by operation of law or otherwise, without Company's prior written consent and any attempt to do so shall be void.

Entire Agreement. These Terms of Use, along with the then current version of the Acceptable Use Policy and Privacy Policy, shall constitute the entire agreement and understanding between us concerning the subject matter hereof and supersedes all prior agreements and understanding of the parties with respect thereto. Except as provided herein, any attempt to modify or supplement these this Agreement shall be void unless agreed to in writing and signed by both parties.

Notices. All notices under this Agreement will be in writing and will be deemed to have been duly given when received, if personally delivered; when receipt is acknowledged, if transmitted by facsimile or e-mail; upon confirmed receipt, if sent for next day delivery by recognized overnight delivery service; and upon confirmed receipt, if sent by certified or registered mail, return receipt requested. Notices to Company shall be to Healthy Monkey, LLC d/b/a Coherent

Health, 591 Warburton Avenue, #174, Hastings on Hudson, NY 10706, email:
support@mycoherenthealth.com. Notices to You shall be to your address on file with Company.