

## Terms of Service

Effective Date: September 27th, 2025

The following terms (the “Terms of Service” or the “Agreement”) constitute an agreement between you and Proximity Health, Inc. (“Proximity Health,” “we,” or “us”), the operator of Proximity Health.com and related websites, applications, services and mobile applications, and all associated services (collectively, the “Services”) provided by Proximity Health and on/in which these Terms of Service are posted or referenced. Some Services may require you to agree to additional terms specific to those Services, which terms will be presented to you prior to your use of those Services and are included as part of these Terms of Service. For the purposes of these Terms of Service, the “Services” include, without limitation, scheduling pages and technology maintained by Proximity Health on behalf of third parties, appointment scheduling technology integrated into third party websites, video services for the purposes of telehealth appointments, and other technology provided by Proximity Health for the facilitation and enablement of healthcare services.

This Agreement constitutes a contract between you and us that governs your access to and use of the Services. This means you must agree to this Agreement in order to access and/or use our Services. If you do not agree, then you may not use the Services. As used in this Agreement, “you” means any visitor, user, or other person who accesses our Services; whether or not such person registered for a Proximity Health Account (as defined in Section 1).

Provisions that, by their nature, should survive termination of this Agreement shall survive termination. By way of example, all of the following will survive termination: any obligation you have to pay us (including, without limitation, for the Services or for Designated Provider Services (as defined herein)) or indemnify us, any limitations on our liability, any

terms regarding ownership or intellectual property rights (including but not limited to any rights or licenses granted to us under this Agreement), and terms regarding Disputes (as defined in the Arbitration Agreement below) between us, including, without limitation, the Arbitration Agreement in Section 17, will survive such termination.

Proximity Health's collection and use of Personal Data in connection with the Services is described in Proximity Health's [Privacy Policy](#) ("Personal Data" as defined therein).

IMPORTANT: PLEASE REVIEW THE ARBITRATION NOTICE AND CLASS ACTION WAIVER IN SECTION 17 BELOW CAREFULLY, AS IT WILL REQUIRE YOU TO RESOLVE DISPUTES BETWEEN YOU AND PROXIMITY HEALTH BY BINDING, INDIVIDUAL ARBITRATION EXCEPT FOR EXCLUDED DISAGREEMENTS (AS DEFINED IN THE ARBITRATION AGREEMENT, BELOW). YOU ACKNOWLEDGE AND AGREE THAT (1) YOU AND PROXIMITY HEALTH ARE EACH WAIVING THE RIGHT TO A TRIAL BY JURY AND (2) YOU WAIVE YOUR RIGHT TO PARTICIPATE AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED CLASS ACTION LAWSUIT, CLASS-WIDE ARBITRATION, OR REPRESENTATIVE PROCEEDING AGAINST PROXIMITY HEALTH. BY ENTERING THIS AGREEMENT, YOU EXPRESSLY ACKNOWLEDGE THAT YOU HAVE READ AND UNDERSTOOD, AND AGREE TO BE BOUND BY, ALL OF THE TERMS AND CONDITIONS OF THIS AGREEMENT AND HAVE TAKEN TIME TO CONSIDER THE CONSEQUENCES OF THIS IMPORTANT DECISION.

We are constantly trying to improve our Services, so these Terms of Service may need to change along with our Services. We reserve the right to change the Terms of Service at any time, and if we do make material changes, we will place a notice on our [website](#), send you an email, and/or make reasonable attempts to notify you by some other means. If you don't agree with the new Terms of Service, you are free to reject them; however, that means you will no longer be able to use the Services. If you use the Services in any way after a change to the Terms of Service becomes effective, that means you agree to all of the changes.

Except for changes by us as described above, no other amendment or modification of these Terms of Service will be effective unless made in writing and signed by both you and us.

We may from time to time add new features to the Services, substitute a new service for one of the existing Services, or discontinue or suspend one or any part of the existing Services. Under no circumstances will Proximity Health be liable for any suspension or discontinuation of the Services or any portion thereof, and any use of new features or services will be governed by this Agreement.

If you create a Proximity Health Account or use the Services on behalf of an individual other than yourself, you represent that you are authorized by such individual to accept this Agreement on such individual's behalf and bind them to this Agreement (in which case, the references to "you" and "your" in this Agreement, except for in this sentence, refer to that individual).

## **1. ABOUT THE SERVICES**

Proximity Health grants you a limited, non-exclusive, revocable, non-sublicensable, non-transferable license to use the Services in accordance with these Terms of Service. Portions of the Services can be viewed without a Proximity Health Account. However, to benefit from all of the Services we offer, you must create an account (a "Proximity Health Account") and provide certain basic information about yourself. If you do provide us with any information, you authorize Proximity Health to use and disclose it as described in our [Privacy Policy](#).

While utilizing the Services, you may encounter certain Content that Proximity Health makes available to you. "Content" means content, text, data, graphics, images, photographs, video, audio, information, suggestions, articles, scheduling availability, guidance, and other materials provided, made available or otherwise found through the Services, including, without limitation, Content provided in direct response to your questions or postings. You acknowledge that although some Content may be provided by healthcare professionals, the provision of such Content does not create a medical

professional/patient relationship, and does not constitute an opinion, medical advice, or diagnosis or treatment, but instead is provided to assist you in choosing a doctor, dentist or other healthcare specialist, professional, provider, organization, or agent or affiliate thereof (collectively, “Healthcare Providers”) or otherwise to be generally informative.

WHILE WE MAKE REASONABLE EFFORTS TO PROVIDE YOU WITH ACCURATE CONTENT, WE MAKE NO GUARANTEES, REPRESENTATIONS OR WARRANTIES, WHETHER EXPRESS OR IMPLIED, WITH RESPECT TO ANY CONTENT (INCLUDING BUT NOT LIMITED TO DESCRIPTIONS OF PROFESSIONAL QUALIFICATIONS, EXPERTISE, QUALITY OF WORK, PRICE OR COST INFORMATION, INSURANCE COVERAGE OR BENEFIT INFORMATION). IN NO EVENT SHALL WE BE LIABLE TO YOU OR ANYONE ELSE FOR ANY DECISION MADE OR ACTION TAKEN BY YOU IN RELIANCE ON ANY SUCH CONTENT. FURTHERMORE, WE DO NOT IN ANY WAY ENDORSE, REFER OR RECOMMEND ANY INDIVIDUAL OR ENTITY LISTED IN CONTENT AND/OR ACCESSIBLE THROUGH THE SERVICES.

## **2. WE DO NOT PROVIDE MEDICAL ADVICE**

Proximity Health is not a healthcare provider. The Content that you obtain or receive from Proximity Health, its employees, contractors, partners, sponsors, advertisers, licensors or otherwise through the Services, is for informational, scheduling and payment purposes only. All medically related information, including, without limitation, information shared via the **Proximity Health Health Tips** **Proximity Health AI Recommendations**, Proximity Health social channels, Proximity Health emails and text messages, or Proximity Health advertising is for informational and communicative purposes only.

WHILE WE HOPE THE CONTENT IS USEFUL IN YOUR HEALTHCARE JOURNEY, IT IS NOT INTENDED AS A SUBSTITUTE FOR, NOR DOES IT REPLACE, PROFESSIONAL MEDICAL ADVICE, DIAGNOSIS, OR TREATMENT. DO NOT USE THE SERVICES FOR EMERGENCY MEDICAL NEEDS. IF YOU EXPERIENCE A MEDICAL OR MENTAL

HEALTH EMERGENCY, ARE THINKING ABOUT SUICIDE OR TAKING ACTIONS THAT MAY CAUSE HARM TO YOU OR TO OTHERS, IMMEDIATELY CALL A HEALTHCARE PROFESSIONAL AND/OR 1-1-2. YOUR USE OF THE SERVICES IS SOLELY AT YOUR OWN RISK. NOTHING STATED, POSTED, OR AVAILABLE THROUGH ANY SERVICES IS INTENDED TO BE, AND MUST NOT BE TAKEN TO BE, THE PRACTICE OF MEDICINE, DENTISTRY, NURSING, PHARMACY, OR OTHER PROFESSIONAL HEALTHCARE ADVICE, OR THE PROVISION OF MEDICAL CARE.

Proximity Health is not a referral service and does not refer, recommend or endorse any particular Healthcare Provider, test, procedure, opinion, or other information that may appear through the Services. If you rely on any Content, you do so solely at your own risk. We encourage you to independently confirm any Content relevant to you with other sources, including the Healthcare Provider's office, medical associations relevant to the applicable specialty, your state medical boards, and the appropriate licensing or certification authorities to verify listed credentials and education.

### **3. NO DOCTOR PATIENT RELATIONSHIP**

DOCTORS, DENTISTS, NURSES, AND OTHER MEDICAL PROFESSIONALS USE THE SERVICES TO SHARE CONTENT WITH YOU, BUT YOUR USE OF THIS CONTENT IS NOT A SUBSTITUTE FOR HEALTHCARE. NO LICENSED MEDICAL PROFESSIONAL/PATIENT RELATIONSHIP IS CREATED WHEN YOU USE THE SERVICES OR CONTENT. THIS IS TRUE WHETHER SUCH CONTENT IS PROVIDED BY OR THROUGH THE USE OF THE SERVICES OR THROUGH ANY OTHER COMMUNICATIONS FROM PROXIMITY HEALTH INCLUDING, WITHOUT LIMITATION, THE "FIND A DOCTOR" FEATURE, PROXIMITY HEALTH ANSWERS, PROXIMITY HEALTH HELP CENTER, PROXIMITY HEALTH BLOG, PROXIMITY HEALTH SOCIAL CHANNELS, PROXIMITY HEALTH EMAILS OR TEXT MESSAGE LINKS TO OTHER SITES, OR ANY ASSISTANCE WE MAY PROVIDE TO HELP YOU FIND AN APPROPRIATE HEALTHCARE PROVIDER IN ANY FIELD.

Proximity Health encourages Healthcare Providers to use the Services responsibly, but we have no control over, and cannot guarantee the availability of, any Healthcare Provider at any particular time. We will not be liable for canceled or otherwise unfulfilled appointments, or any injury or loss resulting therefrom, or for any other injury or loss resulting or arising from, or related to, the use of the Services whatsoever.

#### **4. AUTHORIZATION AND ACKNOWLEDGEMENT; IMPORTANT INFORMATION ABOUT HEALTHCARE PROVIDER RELATIONSHIPS AND HEALTHCARE PROVIDER LISTS**

In connection with using the Services to schedule appointments with Healthcare Providers, you understand that:

YOU ARE RESPONSIBLE FOR CHOOSING YOUR OWN HEALTHCARE PROVIDER, INCLUDING WITHOUT LIMITATION, DETERMINING WHETHER THE APPLICABLE HEALTHCARE PROVIDER IS SUITABLE FOR YOUR HEALTHCARE NEEDS BASED ON SPECIALTY, EXPERIENCE, QUALIFICATION, LICENSES AND OTHER IMPORTANT FACTS AND CIRCUMSTANCES THAT COULD IMPACT YOUR CARE.

Proximity Health or its designee may take certain limited steps to (a) verify that Healthcare Providers participating in the Services hold certain active licenses, certifications or registrations required by law to practice and provide the services offered by them through the Services, and (b) verify that Healthcare Providers are not listed in the Ghana or any National Medical and Dental Council database. Proximity Health may also exclude Healthcare Providers from our Services who, in Proximity Health's discretion, have engaged in inappropriate or unprofessional conduct (including, but not limited to, conduct in violation of our standards regarding but not limited to safety, accuracy, professional obligations, etc.).

While all qualified providers are eligible to use our Services, Proximity Health's lists of Healthcare Providers are not exhaustive. Healthcare Providers choose whether to participate in the Services, what appointment availability, if any, to advertise on their Proximity Health profiles, and may also choose to set a maximum amount that they want to spend on

new patient bookings received through Proximity Health. This means that regardless of whether they participate in the Services, Healthcare Providers may have additional availability beyond what's listed through the Services if you contact them directly. Healthcare Providers listed through the Services may enter into contracts with us, and may pay us fees in order to use or be marketed through the Services. If you book an appointment with a Healthcare Provider through the Services, Proximity Health may receive a fee.

To help you find Healthcare Providers who may be suitable for your needs, and enable the maximum choice and diversity of Healthcare Providers participating in the Services, we will provide you with lists and/or profiles of Healthcare Providers. Any search results are based on information that you provide to us or which our services reasonably acquire based on the information that you provide, such as insurance information, geographical location, and healthcare specialty and/or services they provide. They may also be partially based on other criteria (including, for example, Healthcare Provider availability, past selections by and/or ratings of Healthcare Providers by you or by other Proximity Health users, and past experiences of Proximity Health users with Healthcare Providers). Please note that there may be other Healthcare Providers who meet your search criteria but are not available through Proximity Health.

Proximity Health (a) does not employ, refer to, recommend, or endorse any Healthcare Providers, (b) does not make any representations or warranties with respect to these Healthcare Providers or the quality of the services they may provide, (c) is not responsible for ensuring that information (including credentials) a Healthcare Provider provides about himself or herself is accurate or up-to-date, (d) is not responsible for making sure that Healthcare Providers' services are actually provided or are up to a certain standard of quality, and (e) does not receive any additional fees from Healthcare Providers for featuring them (i.e., higher or better placement on lists) through the Services (subject to "Sponsored Results" as described below). We don't control the actions of any Healthcare Providers and Healthcare Providers are not our employees. Note, however, to the extent that you use the Services as provided by your employer, Proximity Health may provide lists and/or profile previews based also on criteria determined by your employer and your employer's agents or

advisors. In addition, to the extent that Proximity Health serves as a platform for, or provides technical support to, the provider directory associated with your health coverage, Healthcare Providers will appear in the directory based on criteria determined by your health plan or plan sponsor, as applicable.

We may show you advertisements or sponsored search results (“Sponsored Results”) through the Services, including above, next to, or interspersed within the other search results. Proximity Health receives additional fees from Healthcare Providers for including them in Sponsored Results, and such Sponsored Results are not, and should not be considered, an endorsement, referral or recommendation by Proximity Health of the Healthcare Provider. Sponsored Results are conspicuously labeled as “Sponsored” in the Services.

## **5. THE SERVICES AND CONTENT ARE INFORMATIONAL AND EDUCATIONAL RESOURCES**

The Services are an informational and educational resource for consumers and Healthcare Providers. We may, but have no obligation to, publish Content through the Services that is reviewed by our editorial personnel. No party (including Proximity Health) involved in the preparation or publication of such works guarantees that the Content is timely, accurate, or complete, and they will not be responsible or liable for any errors or omissions in, or for the results obtained from the use of, such Content.

Healthcare Provider Content:

Content related to Healthcare Providers and their practices (“Healthcare Provider Content”) is intended for general reference purposes only. Healthcare Provider Content may be provided by the Healthcare Provider and/or office staff, and collected from multiple other data sources that may not be confirmed by the Healthcare Provider. While we make efforts to confirm Healthcare Provider Content and keep it up to date, it can change frequently and may become out of date,

incomplete or inaccurate at any time. Proximity Health does not provide any advice or certification regarding the qualifications of any particular Healthcare Provider.

#### Procedures/Products/Services:

Procedures, products, services and devices discussed and/or marketed through the Services are not applicable to or suitable for all individuals, patients or all clinical situations. Any procedures, products, services or devices represented through the Services by advertisers, sponsors, and other participants of the Services, either paid or unpaid, are presented for your awareness and do not necessarily imply, and we make no claims as to, safety or appropriateness for any particular individual or prediction of effectiveness, outcome or success.

#### Insurance Content:

Insurance and insurance related Content (including, without limitation, insurance coverage and benefit Content) ("Insurance Content") is intended for general reference purposes and for your convenience only. Insurance Content may be based on Personal Data you provide to us as well as Healthcare Provider Content (such as CPT codes and other encounter data). Insurance Content may also be provided either directly by the insurance provider you identify or via a third-party clearinghouse. Insurance Content can change frequently and may become out of date, incomplete or inaccurate. You agree that you will (a) provide accurate and complete insurance-related Personal Data, and (b) verify and maintain accurate insurance-related Personal Data (including, without limitation, verifying such Personal Data obtained by automated means from an insurance card you provide). Although Proximity Health strives to provide you with accurate Insurance Content, we are not responsible for any inaccurate, incomplete or outdated Insurance Content

#### AI Content

We may make available through the Services certain features or content powered by artificial intelligence (“AI”, and such features, the “AI Features”).

Without limiting anything else herein, we make no representations or warranties whatsoever regarding the AI Features, which are provided “AS IS” and should be used at your own risk. Before interacting with the AI Features, you are responsible for making your own determination that the AI Features are suitable for your needs, and you are responsible for any reliance on the accuracy, completeness, or usefulness of any AI Features. You should not act or refrain from acting on the basis of any information made available through the Services, including the AI Features. We are not responsible for monitoring any interactions between you and the AI Features, and you should evaluate the accuracy of any information produced from an AI Feature as appropriate for your use case. In rare cases, AI Features may provide incomplete, incorrect, or offensive information that does not represent our views. If any information from an AI Feature references any third party products or services, it doesn’t mean that the third party endorses or is affiliated with us.

Under no circumstances will we be liable in any way for the AI Features or any information generated by the AI Features, including, but not limited to, infringement of intellectual property rights, any errors or omissions, or for any loss or damage of any kind incurred as a result of your interaction with the AI Features.

## **6. MEDICAL INFORMATION**

You may elect to enter certain medical information into the Services, including by requesting an appointment or filling out a medical history form that is required or provided by a Healthcare Provider (“Medical History Form”) on behalf of yourself or a third party from whom you have authorization to provide such information. You can request (and in doing so, authorize) Proximity Health to provide this information to your chosen Healthcare Provider. You acknowledge and agree that such information may have to be reviewed and approved by you or someone authorized by you at the time of your appointment to ensure its accuracy.

## **7. YOUR RESPONSIBILITIES**

### **7.1 Your Proximity Health Account Credentials**

When you create a Proximity Health Account, you will provide an email address and create a password (collectively, “Credentials”). You should keep your Credentials private and not share your Credentials with anyone else. You must immediately notify us if your password has been stolen or compromised by sending an email to [support@proximityhealth.org](mailto:support@proximityhealth.org). You promise to provide us with accurate, complete, and updated registration information about yourself. You may also be able to connect to the Services maintained by a third party company, such as Meta Platforms, Inc., Google LLC (“Google”) or Apple Inc. (“Apple”). If you connect to the Services through a third party service, you give us permission to access and use your information from such third party service as permitted by such third party service, and to store your log-in credentials for such third party service. You are ultimately in control of how much information is accessible to us and may exercise such control by adjusting your privacy settings on such third party service. Proximity Health has no control over, and assumes no responsibility for, the services, content, accuracy, privacy policies, or practices of or opinions expressed by any such third party.

### **7.2 Your Responsibilities Generally**

While it’s free to create a Proximity Health Account and download our app, you are still responsible for your healthcare expenses. Any charges for any medical or related services rendered by Healthcare Providers will apply and will be entirely your responsibility. You are responsible for ensuring that all information that you provide to Proximity Health is accurate and up-to-date, including your insurance information. Some Services may not be available through Proximity Health or your Healthcare Provider depending upon a number of factors, including but not limited to your insurance coverage. Ultimately, you must resolve any dispute between you or any Healthcare Provider arising from any transaction hereunder directly with the Healthcare Provider.

You are responsible for all use of the Services and for all use of your Credentials, including use by others to whom you have given your Credentials. You may only use the Services for lawful, non-commercial purposes. If your use of the Services is prohibited by applicable laws, then you aren't authorized to use the Services. You may not use the Services in any manner that could damage, disable, overburden, or impair our servers or networks, or interfere with any other party's use and enjoyment of the Services. You may not attempt to gain unauthorized access to or to exceed your authorized access to any of the Services, user accounts, or computer systems or networks, through any means. You may not accumulate or index, directly or indirectly, any Content or portion of the Services (including, without limitation, Healthcare Provider Content, appointment availability, price information, or Insurance Content) for any purpose whatsoever.

You are also responsible for reviewing and complying with the terms set forth in our [Acceptable Use Policy](#) and our [Community Standards](#).

In addition to our rights in these Terms of Service, we may take any legal action and implement any technological measures to prevent violations of the restrictions hereunder and to enforce these Terms of Service, our Acceptable Use Policy, and our Community Standards.

### **7.3 Responsibilities of Healthcare Providers and Others in the Healthcare or Medical Industries**

If you are a Healthcare Provider or other person or entity in the healthcare or medical industries, regardless of whether you maintain a Proximity Health Account or whether you schedule or intend to schedule appointments through the Services, you acknowledge and agree that:

(a) You will not use the Services to view, access or otherwise use, directly or indirectly, price, availability, or other Content for any purpose other than your own personal use as a patient or prospective patient;

(b) You will not use the Services to establish, attempt to establish, or enforce, directly or indirectly, any agreement or coordination of the prices charged for any product or service; the kinds, frequencies or amounts of any product or service offered; or the customer or customer categories for any product or service, or otherwise engage or attempt to engage in price fixing, output restriction, or customer or market allocation; and

(c) You will not use the Services, directly or indirectly, to engage in any anti-competitive, deceptive or unfair practices (including but not limited to booking fraudulent healthcare appointments or manipulating any review or rating data), or otherwise violate applicable antitrust, competition or consumer protection laws, or regulations.

#### **7.4 Disputes Between Users**

If there is a dispute between participants on this site or Services, or between users and any third party (including but not limited to Healthcare Providers), you agree that Proximity Health is under no obligation to become involved. In the event that you have a dispute with one or more other users or Healthcare Providers, you release Proximity Health, its directors, officers, employees, agents, and successors from claims, demands, and damages of every kind or nature, known or unknown, suspected or unsuspected, disclosed or undisclosed, arising out of or in any way related to such dispute and/or our Services.

#### **8. Telemedicine Services**

You may be able to utilize certain telemedicine services through the Services, including but not limited to via Proximity Health's video service or certain third party virtual care services ("Video Services"). Proximity Health is not a healthcare provider, insurance provider, or a prescription fulfillment warehouse. In providing the Video Services, Proximity Health's role is limited to making certain telehealth related information available to you and/or facilitating your access to telemedicine services provided by Healthcare Providers. Proximity Health is not responsible for such Healthcare

Providers' acts or omissions, or for any content of your communications with them. Proximity Health is independent of the Healthcare Providers, and does not employ or otherwise exercise any control over the services provided by Healthcare Providers, regardless of whether they utilize the Video Services. Further, Proximity Health has no control over, and assumes no responsibility for, the content, availability, suitability, accuracy, quality, security, legality, reliability, privacy policies, or practices of any Video Services offered by a third party. When you use such Video Services, we encourage you to read the terms and conditions and privacy policy of the applicable third party provider(s). By using such Video Services, you release and hold us harmless from any and all liability arising from your use thereof.

## **9. THIRD PARTY LINKS AND SERVICES**

### **9.1 Links to Other Websites**

While using the Services, you may encounter links to other websites. These links are provided for your convenience only and we do not endorse these sites or the products and services they provide. You acknowledge and agree that we are not responsible or liable for the content or accuracy of these other websites. Although we attempt to link to trustworthy websites, it is possible that they will contain materials that are objectionable, unlawful, or inaccurate and we will not be responsible or liable for the legality or decency of material contained in or accessed through such other websites. By using the Services, you release and hold us harmless from any and all liability arising from your use of any third party website or service. Your interactions with organizations and/or individuals found on or through the Services, including payment and delivery of goods or services, and any other terms, conditions, warranties or representations associated with such dealing, are solely between you and such organizations and/or individuals. You should make whatever investigation you feel necessary or appropriate before proceeding with any online or offline transaction with any of these third parties.

You agree that Proximity Health will not be responsible or liable for any loss or damage of any sort incurred as the result of any such dealings.

## **9.2 Third Party Software**

We may incorporate third party software as part of certain of the Services, including without limitation open source third party software. Your use of such third party software is subject to any and all applicable additional terms and conditions governing such use provided by the third party software provider. Where applicable, additional notices relating to the third party software may be provided by us, which for example may contain attribution and disclaimer notices applicable to the third party software.

## **9.3 Application Stores**

You acknowledge and agree that the availability of our mobile application is dependent on the third party stores from which you download the application (e.g., the Apple App Store, Google Play or other store or distribution platform (each, an “Application Provider”)). Each Application Provider may have its own terms and conditions to which you must agree before downloading mobile applications from such store. You agree to comply with, and your license to use our application is conditioned upon your compliance with, such Application Provider terms and conditions. To the extent such other terms and conditions from such Application Provider are less restrictive than, or otherwise conflict with, the terms and conditions of these Terms of Service, the more restrictive terms and conditions shall apply.

If you are accessing the Services via an application (an “Application”) through an Application Provider, you and we acknowledge and agree that: (i) these Terms of Service are between you and us, and not the Application Provider, and we are responsible for the Application, not the Application Provider; (ii) the Application is licensed to you on a limited, non-exclusive, non-transferrable, non-sublicensable basis, solely to be used in connection with the Services, subject to all the

terms and conditions of these Terms of Service as they are applicable to the Services; (iii) with respect to Apple as the Application Provider, you will only use the Application in connection with an Apple device that you own or control; (iv) the Application Provider has no obligation to furnish maintenance and support services or handle any warranty claims with respect to the Application; (v) in the event of any failure of the Application to conform to any applicable warranty, including those implied by law, you may notify the Application Provider of such failure; upon notification, the Application Provider's sole warranty obligation to you will be to refund to you the purchase price, if any, of the Application; (vi) we, and not the Application Provider, are responsible for addressing any claims you or any third party have relating to the Application; (vii) in your use of the Application, you will comply with any applicable third party terms of agreement which may affect or be affected by such use; (viii) the Application Provider and its subsidiaries are third party beneficiaries of these Terms of Service as related to your use of the Application, and that upon your acceptance of these Terms of Service, the Application Provider will have the right (and will be deemed to have accepted the right) to enforce these Terms of Service as related to your use of the Application against you as the third party beneficiary; (ix) in the event of any third party claim that the Application or your possession and use of the Application infringes that third party's intellectual property rights, Proximity Health, and not Application Provider, will be responsible for the investigation, defense, settlement, and discharge of any such infringement claim; and (x) you are not located in a country subject to a GHANA government embargo, or that has been designated by the GHANA government as a "terrorist supporting" country, and that you are not listed on any GHANA government list of prohibited or restricted parties. The foregoing terms apply to your use of all the Services, including the Application.

## **10. PAYMENT AND TRANSACTION PROCESSING**

### **10.1 Payment and Transaction Processing Generally**

You may be permitted to use the Services to pay for Designated Provider Services (as defined in Section 10.2), other products or services provided by the applicable Healthcare Provider, and/or other payment obligations, including, for example, your insurance copayments. In connection with such payments, we process your payment card information in accordance with our Privacy Policy. Proximity Health and/or its payment processing partner may collect from the applicable Healthcare Provider a transaction processing fee for our billing, collection and payment services (the “Transaction Processing Services”) performed in connection with such payment. Please note that any payment terms presented to you in the process of using or signing up for a paid service or the Transaction Processing Services are deemed part of these Terms.

## **10.2 Designated Provider Services**

Certain Healthcare Providers may provide through the Services price information for their healthcare and related products and services (“Designated Provider Services”), and permit you to use the Services to pay for such Designated Provider Services.

Prior to scheduling an appointment for Designated Provider Services, please carefully review (a) the price information, and (b) all of the products and services that are included and excluded in each Designated Provider Service. Healthcare Providers are required to provide the applicable Designated Provider Service at or below the price indicated at the time of scheduling (“Designated Price”), unless you separately agree otherwise. Services in addition to or different from Designated Provider Services may be available, offered or rendered by Healthcare Providers. You and your Healthcare Providers are responsible for agreeing to pricing for any additional or different services. PROXIMITY HEALTH IS NOT RESPONSIBLE FOR YOUR OR ANY HEALTHCARE PROVIDER’S FAILURE TO AGREE TO PRICING FOR ANY ADDITIONAL OR DIFFERENT SERVICES.

### **10.3 Payment of Your Financial Obligations Under Your Insurance Coverage and Benefits**

Certain Healthcare Providers may permit you to use the Services to pay for all or a portion of your financial obligations under your insurance coverage and benefits (the “Insurance Payment Services”).

While we endeavor to provide accurate Insurance Content (for example, your copayment obligation), we make no guarantees and disclaim all warranties that the Insurance Content is correct. You acknowledge that Insurance Content is provided by the insurance provider or via a third party clearinghouse. Please also keep in mind that (a) Insurance Content is constantly being updated (for example, to reflect amounts you may have paid earlier towards your deductible), (b) you are likely to receive an explanation of benefits (or similar document) from your insurance company after you receive your Healthcare Provider’s services, and (c) you may ultimately owe your Healthcare Provider more than the amount you paid through the Insurance Payment Services.

### **10.4 Transaction Processing**

If you make a payment through the Services, a transaction processing fee may apply. Healthcare Providers may separately charge you for additional or different products or services.

You acknowledge and agree that:

(a) you are responsible for and you will pay the Designated Price for the Designated Provider Services charged through Proximity Health by the applicable Healthcare Provider, as well as other amounts the applicable Healthcare Provider may charge through Proximity Health for any additional or different services rendered during or related to the applicable appointment;

(b) you remain responsible for paying all amounts required by law and/or contract (e.g. health plan agreement), including all cost-sharing obligations (such as, but not limited to, copayments, deductibles and other coinsurance obligations);

(c) if you utilize our Transaction Processing Services, Proximity Health may process your payment, and may do so in collaboration with our payment processing partner;

(d) Proximity Health is not responsible for any charges incurred for any products or services provided by Healthcare Provider, including any Designated Provider Service;

(e) Proximity Health is not responsible for any charges submitted for processing by Healthcare Providers;

(f) in the event you dispute any fees chargeable or charged through Proximity Health by a Healthcare Provider, you will resolve such dispute directly with the applicable Healthcare Provider;

(g) if you utilize our Transaction Processing Services, you may be required to accept the Terms of Service and privacy policy of our payment processing partner with respect to Transaction Processing Services. Currently, we use PayStack, Inc. as our payment processing partner. You can access their Terms of Service at <https://paystack.com/terms#terms>;

(h) you will promptly review all charges processed through the Transaction Processing Services, and immediately notify Proximity Health to the extent you have any questions, concerns or Disputes (as defined in the Arbitration Agreement); in no event may you raise any questions, concerns or Disputes more than twelve (12) months after the date of the applicable transaction; and

(i) You must provide current, complete, and accurate billing information, promptly update all information necessary to keep your billing information current, complete, and accurate, and must promptly notify us or our payment processing partner if

your account information is cancelled (such as due to loss or theft) or if you become aware of a potential breach of its security (such as unauthorized disclosure or use of your username or password).

We are not responsible for any error by, or other acts or omissions of, the payment processor. You further acknowledge and agree that neither Proximity Health nor our payment processing partner will be responsible if either we or our payment processing partner are unable to complete a transaction for any reason, including but not limited to:

- (A) if you have not provided us with accurate, current and complete payment information;
- (B) if you do not have sufficient available funds or available credit to complete the transaction;
- (C) if you do not have an active payment card, or if we are unable to confirm your payment card information or your identity;
- (D) if your account with us, your account with our payment processing partner, your access to the Services, or your access to our payment processing partner's services has been terminated or suspended for any reason;
- (E) if we or our payment processing partner have reason to believe that the requested transaction is unauthorized; or
- (F) if we terminate or suspend the services we provide to the applicable Healthcare Provider.

## **11. REVIEWS AND OTHER CONTENT YOU POST OR SUBMIT**

You may have the opportunity to submit feedback regarding your experiences with Healthcare Providers you find through the Services, to submit inquiries concerning possible medical needs, and to participate in the other interactive or community features of the Services (collectively, "Posted Information"). It is important that you act responsibly when providing Posted Information. Your Posted Information must comply with our [Acceptable Use Policy](#), and your Healthcare Provider reviews must comply with [our posted guidelines](#), as well as any internal policies we may develop and implement from time to time. Please note that while Proximity Health may moderate Posted Information (including but not limited to Healthcare Provider reviews) for compliance with the requirements in this paragraph, Proximity Health does not endorse or confirm the accuracy of any statements made in such Posted Information; Posted Information solely reflects the views and opinions of the author, and not of Proximity Health.

Please note that all of the following licenses are subject to our [Privacy Policy](#) to the extent they relate to Posted Information that is also your personally-identifiable information.

By posting Posted Information through the Services, you agree to and hereby grant, and you represent and warrant that you have the right to grant, to Proximity Health and its affiliates, agents, and contractors an irrevocable, perpetual, royalty-free, fully sublicensable, fully paid up, worldwide license to use, copy, publicly perform, digitally perform, publicly display, and distribute such Posted Information and to adapt, edit, translate, prepare derivative works of, incorporate into other works, and otherwise fully exploit such Posted Information. You represent and warrant that you have all rights to grant such licenses to us without infringement or violation of any third party rights, including without limitation any privacy rights, publicity rights, copyrights, trademarks, contract rights, or any other intellectual property or proprietary rights. You may not post Posted Information which is false or fraudulent, or which otherwise does not accurately represent your opinions and experiences.

You understand and agree that Proximity Health, in performing the required technical steps to provide the Services to our users (including you), and may need to make changes to your Posted Information to conform and adapt that Posted

Information to the technical requirements of connection networks, devices, services, or media, and the foregoing licenses include the rights to do so.

Posted Information is the sole responsibility of the person from whom such Posted Information originated and does not reflect the opinion of Proximity Health. Proximity Health does not assume liability for Posted Information or for any claims, liabilities, or losses resulting from any Posted Information.

We also welcome and encourage you to provide feedback, comments and suggestions for improvements to the Services (“Feedback”). You may submit Feedback by emailing us, reaching out to our social networking accounts, or by other means of communication. Any Feedback you submit to us will be considered non-confidential and non-proprietary to you. By submitting Feedback to us, you grant us a non-exclusive, worldwide, royalty-free, irrevocable, sub-licensable, perpetual license to use and publish such Feedback for any purpose, without compensation to you.

## **12. YOUR USE OF CONTENT**

All of the Content is owned by us or our licensors and is protected by copyright, trademark, patent, and trade secret laws, other proprietary rights, and international treaties. You acknowledge that the Services and any underlying technology or software used in connection with the Services contain Proximity Health’s proprietary information. We give you permission to use the Content for personal, non-commercial purposes only and do not transfer any intellectual property rights to you by virtue of permitting your use of the Services. You may print, download, and store information from the Services for your own convenience, but you may not copy, distribute, republish (except as expressly permitted herein), sell, or exploit any of the Content, or exploit the Services in whole or in part, for any commercial gain or purpose whatsoever. Except as expressly provided herein, neither Proximity Health nor its suppliers grant you any express or implied rights, and all rights in the Services not expressly granted by Proximity Health to you are retained by Proximity Health.

### **13. DISCLAIMER**

We created Proximity Health to improve patients' healthcare experiences, and we want your experience with Proximity Health to be exceptional. While we work hard to make that happen, you acknowledge that we have no control over, and no duty to take any action regarding: (a) which users gain access to the Services, (b) what Content you access, (c) what effect the Content may have on you, (d) how you may interpret or use the Content, or (e) what actions you may take as a result of having been exposed to the Content. You release us from all liability for your use or inability to use any Content. We and our licensors, suppliers, partners, parent, subsidiaries or affiliated entities, and each of their respective officers, directors, members, employees, consultants, contract employees, representatives, and agents, and each of their respective successors and assigns (Proximity Health and all such parties together, the "Proximity Health Parties") make no representations or warranties regarding suggestions or recommendations of services or products offered or purchased through the Services, and the Proximity Health Parties will not be responsible or liable for the accuracy, copyright compliance, legality, or decency of material contained in or accessed through the Services. We have no special relationship with or fiduciary duty to you.

WE (AND OUR LICENSORS AND SUPPLIERS) PROVIDE THE SERVICES "AS IS" AND "AS AVAILABLE." WE MAKE NO EXPRESS OR IMPLIED WARRANTIES OR GUARANTEES ABOUT THE CONTENT OR SERVICES. TO THE MAXIMUM EXTENT PERMITTED BY LAW, WE HEREBY DISCLAIM ALL SUCH WARRANTIES, INCLUDING ALL STATUTORY WARRANTIES, WITH RESPECT TO THE SERVICES, INCLUDING, WITHOUT LIMITATION, ANY WARRANTIES THAT THE SERVICES ARE MERCHANTABLE, OF SATISFACTORY QUALITY, ACCURATE, FIT FOR A PARTICULAR PURPOSE OR NEED, OR NON-INFRINGEMENT. WE DO NOT GUARANTEE THAT THE RESULTS THAT MAY BE OBTAINED FROM THE USE OF THE SERVICES WILL BE EFFECTIVE, RELIABLE OR ACCURATE OR WILL MEET YOUR REQUIREMENTS. WE DO NOT GUARANTEE THAT YOU WILL BE ABLE TO USE THE SERVICES (EITHER DIRECTLY OR THROUGH THIRD PARTY NETWORKS) AT TIMES OR LOCATIONS OF YOUR CHOOSING.

WE ARE NOT RESPONSIBLE FOR THE ACCURACY, RELIABILITY, TIMELINESS OR COMPLETENESS OF INFORMATION PROVIDED BY USERS OF THE SERVICES OR ANY OTHER DATA OR INFORMATION PROVIDED OR RECEIVED THROUGH THE SERVICES. EXCEPT AS EXPRESSLY SET FORTH HEREIN, PROXIMITY HEALTH MAKES NO WARRANTIES ABOUT THE INFORMATION SYSTEMS, SOFTWARE AND FUNCTIONS MADE ACCESSIBLE THROUGH THE SERVICES OR ANY OTHER SECURITY ASSOCIATED WITH THE TRANSMISSION OF SENSITIVE INFORMATION. PROXIMITY HEALTH DOES NOT WARRANT THAT THE SERVICES WILL OPERATE UNINTERRUPTED, ERROR-FREE, BUG-FREE OR FREE FROM DEFECTS, THAT LOSS OF DATA WILL NOT OCCUR, OR THAT THE SERVICES OR SOFTWARE ARE FREE OF COMPUTER VIRUSES, CONTAMINANTS OR OTHER HARMFUL ITEMS.

#### **14. GENERAL LIMITATION OF LIABILITY**

YOUR SOLE AND EXCLUSIVE REMEDY FOR ANY DISPUTE WITH US IS THE CANCELLATION OF YOUR PROXIMITY HEALTH ACCOUNT. IN NO EVENT SHALL OUR CUMULATIVE LIABILITY TO YOU FOR ANY AND ALL CLAIMS RELATING TO OR ARISING OUT OF YOUR USE OF THE SERVICES, REGARDLESS OF THE FORM OF ACTION, EXCEED THE GREATER OF (I) ONE-HUNDRED (\$100) DOLLARS EQUIVALENT OR (II) THE TOTAL AMOUNT OF FEES, IF ANY, THAT YOU ACTUALLY PAID TO PROXIMITY HEALTH AND WHICH PROXIMITY HEALTH RETAINED IN THE SIX MONTHS PRIOR TO THE EVENT GIVING RISE TO THE APPLICABLE CLAIM.

TO THE FULLEST EXTENT ALLOWED BY APPLICABLE LAW, IN NO EVENT AND UNDER NO LEGAL THEORY (INCLUDING, WITHOUT LIMITATION, TORT, CONTRACT, STRICT LIABILITY, OR OTHERWISE) SHALL ANY OF THE PROXIMITY HEALTH PARTIES BE LIABLE TO YOU (OR TO ANY THIRD PARTY CLAIMING UNDER OR THROUGH YOU) FOR ANY INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE, CONSEQUENTIAL OR EXEMPLARY DAMAGES ARISING FROM YOUR USE OF, OR INABILITY TO USE, THE SERVICES. THESE EXCLUSIONS APPLY TO ANY

CLAIMS FOR LOST PROFITS, LOST DATA, LOSS OF GOODWILL, BUSINESS INTERRUPTION, WORK STOPPAGE, ACCURACY OF RESULTS, COMPUTER FAILURE OR MALFUNCTION, ANY OTHER COMMERCIAL DAMAGES OR LOSSES, ANY SUBSTITUTE GOODS, SERVICES, OR TECHNOLOGY, OR MEDICAL MALPRACTICE OR NEGLIGENCE OF HEALTHCARE PROVIDERS UTILIZED THROUGH USE OF THE SERVICES, OR ANY MATTER BEYOND OUR REASONABLE CONTROL, EVEN IF WE KNEW OR SHOULD HAVE KNOWN OF THE POSSIBILITY OF SUCH DAMAGES. BECAUSE SOME STATES OR JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR THE LIMITATION OF LIABILITY FOR CONSEQUENTIAL OR INCIDENTAL DAMAGES, IN SUCH STATES OR JURISDICTIONS, OUR LIABILITY SHALL BE LIMITED IN ACCORDANCE HEREIN TO THE MAXIMUM EXTENT PERMITTED BY LAW.

YOU SHALL AND HEREBY WAIVE YOUR RIGHTS WITH RESPECT TO GHANA CONTRACTS ACT, 1960 (ACT 25) OR ANY SIMILAR LAW OF ANY JURISDICTION, WHICH SAYS IN SUBSTANCE THAT “A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.”

## **15. TERMINATION**

We reserve the right, in our sole discretion, to terminate, suspend and/or deactivate your Proximity Health Account immediately, with or without notice, if there has been a violation of this Agreement, our **Acceptable Use Policy**, our **Community Standards**, or other policies and terms posted through the Services by you or by someone using your Credentials. We may also terminate, suspend or deactivate your Proximity Health Account for any other reason, including inactivity for an extended period. Proximity Health shall not be liable to you or any third party for any termination,

suspension or deactivation of your access to the Services. Further, you agree not to attempt to use the Services after any such termination, suspension or deactivation (except where deactivation is due solely to inactivity, and you are permitted to create another Proximity Health Account). Account termination may result in destruction of any content associated with your Proximity Health Account. Sections 1 - 6, 9 - 18, and any other provisions that, by their nature, should survive termination of these Terms of Service shall survive any termination or expiration of these Terms of Service.

Proximity Health reserves the right to investigate and, at our discretion, take appropriate legal action against anyone who violates these Terms of Service or applicable law related to the Services, including without limitation, removing any offending communication from the Services, terminating the Proximity Health Account of such violators, and/ or blocking your use of the Services.

## **16. INDEMNIFICATION**

Upon a request by us, you agree to defend, indemnify, and hold harmless the Proximity Health Parties from all liabilities, claims, damages (actual and consequential), demands, and expenses, including reasonable attorney's fees, that arise from or are related to your (a) use of the Services; or (b) violation of this Agreement (including without limitation these Terms of Service, the Acceptable Use Policy, and Community Standards); or (c) violation of any intellectual property or other right of any person or entity; or (d) any actions taken by anyone using your Credentials. The foregoing indemnification obligation does not apply to liabilities, claims and expenses arising as a result of our own gross negligence or intentional misconduct.

## **17. DISPUTE RESOLUTION; BINDING ARBITRATION; JURY TRIAL AND CLASS ACTION WAIVER**

PLEASE READ THIS SECTION CAREFULLY. IT CONTAINS AN ARBITRATION AGREEMENT (THE "ARBITRATION AGREEMENT"), WHICH MAY SIGNIFICANTLY AFFECT YOUR LEGAL RIGHTS, INCLUDING YOUR RIGHT TO FILE A LAWSUIT IN COURT AND TO HAVE A JUDGE OR JURY HEAR YOUR CLAIMS. THIS ARBITRATION AGREEMENT

CONTAINS PROCEDURES FOR FINAL AND BINDING INDIVIDUAL ARBITRATION AND A WAIVER OF ANY AND ALL RIGHTS TO PROCEED IN A CLASS, COLLECTIVE, CONSOLIDATED OR REPRESENTATIVE ACTION (COLLECTIVELY, "CLASS ACTION") IN ARBITRATION OR LITIGATION.

YOU AND PROXIMITY HEALTH ARE GIVING UP THE RIGHT TO HAVE A JURY TRIAL TO THE FULLEST EXTENT PERMISSIBLE BY APPLICABLE LAW AND TO FILE OR PARTICIPATE IN A CLASS ACTION SUBJECT TO THE LIMITED EXCLUSION BELOW. IN ARBITRATION, DISPUTES ARE RESOLVED BY AN ARBITRATOR, NOT A JUDGE OR JURY, AND THERE IS LESS DISCOVERY AND APPELLATE REVIEW THAN IN COURT.

Most customer concerns can be resolved by calling us at (+233 543 048 555) or by emailing us at [support@proximityhealth.org](mailto:support@proximityhealth.org). In the event we are unable to resolve a complaint to your satisfaction, this Section explains how any Dispute (as defined below) will be resolved.

For purposes of this Section, the terms "Proximity Health," "our," "we," or "us" includes Proximity Health, Inc., as well as any of their respective present or future affiliates or subsidiaries, and any persons or entities (including agents, representatives, or employees) related to Proximity Health or its present or future affiliates or subsidiaries. Both you and Proximity Health acknowledge and agree that for the purpose of any dispute arising out of relating to the subject matter of these Terms of Service, Proximity Health's officers, directors, employees, and independent contractors ("Personnel") are third party beneficiaries of these Terms of Service, and that upon your acceptance of these Terms of Service, Personnel will have the right (and will be deemed to have accepted the right) to enforce these Terms of Service against you as a third party beneficiary hereof.

YOU AND PROXIMITY HEALTH AGREE THAT ANY DISPUTE (DEFINED BELOW) SHALL BE RESOLVED BY FINAL AND BINDING INDIVIDUAL ARBITRATION EXCEPT AS OTHERWISE PROVIDED HEREIN. NOTWITHSTANDING THE FOREGOING, EITHER PARTY MAY ELECT TO HAVE INDIVIDUAL CLAIMS HEARD IN SMALL CLAIMS COURT IF

THOSE CLAIMS QUALIFY FOR SMALL CLAIMS COURT AND SO LONG AS THE MATTER REMAINS IN SUCH COURT AND IS NOT REMOVED OR APPEALED TO A COURT OF GENERAL JURISDICTION AND ADVANCES ONLY ON AN INDIVIDUAL (NON-CLASS ACTION) BASIS. ANY DISPUTE OVER WHETHER CLAIMS QUALIFY FOR SMALL CLAIMS COURT IS FOR THE SMALL CLAIMS COURT TO DECIDE IN THE FIRST INSTANCE AND, IF NECESSARY, FOR A COURT OF COMPETENT JURISDICTION TO DECIDE.

You and Proximity Health agree that these Terms of Service affect interstate commerce and that the Alternative Dispute Resolution Act, 2010 (Act 798)., and any national or federal arbitration law apply to this Arbitration Agreement and govern all questions as to whether a Dispute is subject to arbitration.

For purposes of this Arbitration Agreement, "Dispute" shall include, but is not limited to, any claims or controversies between you and Proximity Health that are related in any way to these Terms of Service, including, but not limited to, your use of Proximity Health's Services, the Video Services, the Transaction Processing Services, the Insurance Payment Services, or Proximity Health's cancellations, defects, policies, privacy practices, advertising, and/or any communications between you and Proximity Health (to the extent applicable to a dispute regarding Proximity Health), whether occurring on the Proximity Health application, website, or otherwise, even if the Dispute arises after the termination of your relationship with Proximity Health. "Dispute" also includes, without limitation, claims that: (a) you bring against Proximity Health; (b) Proximity Health brings against you; (c) in any way relate to or arise out of any aspect of the relationship between you and Proximity Health, whether based in contract, tort, statute, fraud, misrepresentation, advertising claims, or any other legal theory; (d) arose before you entered into these Terms of Service or out of a prior agreement with Proximity Health (including, without limitation, claims relating to advertising); (e) are subject to ongoing litigation where you are not a party or a member of a certified class; and/or (f) arise after the termination of these Terms of Service. "Dispute," does not include any disagreement or dispute arising out of or relating to (1) your use of third party services (including but not limited to the Designated Provider Services); (2) breach of your privacy rights caused by a third party; (3) your reliance on

claims or statements made by a third party; and (4) patents, copyrights, trademarks, and trade secrets, including piracy, infringement, or unauthorized use of intellectual property (collectively, “Excluded Disagreements”); provided further, with respect to (1) to (3) of the foregoing, you acknowledge and agree to release and hold us harmless from any and all liability arising from, made, or caused by an applicable third party provider as set forth and described in this Agreement including, but not limited to, Sections 5, 7.2, 7.4, 9.1, 9.2, and 10.4. Excluded Disagreements shall not be subject to arbitration or the notice and informal process described below. The arbitrator shall decide all issues except for: (a) those that are specifically reserved for a court herein; (b) those issues relating to the scope, validity, and enforceability of the Arbitration Agreement or any of the provisions of this Section; (c) any issues arising from or relating to the arbitrability of any Dispute and/or the forum in which a dispute should be arbitrated; and (d) whether the arbitration administrator cannot or will not administer the arbitration in accordance with this Arbitration Agreement—all of which are for a court of competent jurisdiction to decide. These Terms of Service and this Arbitration Agreement do not prevent you from bringing your Dispute to the attention of any federal, state, or local government agency.

### **17.1 Mandatory Pre-Arbitration Informal Dispute Resolution**

You and Proximity Health agree to engage cooperatively, and in good faith, to try to resolve any Dispute prior to you or Proximity Health initiating an arbitration proceeding. You or Proximity Health must first send a written notice (“Pre-Arbitration Notice”) to the other party, and your Pre-Arbitration Notice to Proximity Health must include the following: (a) a detailed description of the nature and the basis for the Dispute and any relief sought (including a detailed calculation of any damages); (b) your full name and the email address and phone number associated with your Proximity Health account; and (c) sufficient information to enable you or us to identify any transaction and/or the applicable Services at issue. Your notice to us must be personally signed by you (and your attorney if you are represented by legal counsel).

Your Pre-Arbitration Notice to Proximity Health must be sent to [support@proximityhealth.org](mailto:support@proximityhealth.org). Our Pre-Arbitration Notice to you will be sent to the most recent contact information that you have provided to us.

For a period of 60 days from the date of receipt of a completed Pre-Arbitration Notice from the other party, you and we will work together using reasonable efforts to try to resolve the Dispute. If requested by us in connection with a Pre-Arbitration Notice initiated by you, you agree to personally participate in an individualized telephone settlement conference (and if you are represented by an attorney, your attorney may also participate) to discuss a potential early resolution of the matter. If the Dispute is not resolved within this 60-day period (which can be extended by agreement of the parties), you or Proximity Health may commence arbitration consistent with the process set forth below. Compliance with this informal dispute resolution process is mandatory and a condition precedent to initiating arbitration.

Any applicable limitations period (including statutes of limitations) shall be tolled while the parties engage in this informal dispute resolution process.

This pre-arbitration process is essential so that you and Proximity Health have a meaningful chance to resolve disputes informally. If the sufficiency of a Pre-Arbitration Notice or compliance with this informal dispute resolution process is at issue, such issue may be raised with and decided by a court of competent jurisdiction at either party's election, and any arbitration shall be stayed pending resolution of the issue. The court shall have the authority to enforce this condition precedent to arbitration, which includes the power to enjoin the filing or prosecution of a demand for arbitration or the assessment or payment of arbitration fees. You or we may also elect to raise non-compliance with this informal dispute resolution process and seek relief in arbitration.

## **17.2 Arbitration Rules and Procedures**

If, after the foregoing informal negotiations, the parties cannot resolve the dispute, it shall be finally settled by binding arbitration in Ghana or any jurisdiction where our services are available. The arbitration will proceed in the English language and shall be administered by the Ghana Arbitration Center (the "GAC") or any Arbitration Association in any jurisdiction where our services are available pursuant to its Consumer Arbitration Rules, and, if applicable, its Mass

Arbitration Supplementary Rules, that are in effect at the time the arbitration is initiated (the “Rules”), as modified by the terms set forth in this Agreement. Copies of the Rules can be obtained at the GAC’s website ([www.arbitrationcentreggh.com](http://www.arbitrationcentreggh.com)). Notwithstanding the foregoing, if requested by you and if proper based on the facts and circumstances of the claims presented, the arbitrator shall have the discretion to select a different set of Rules, but in no event, unless you and Proximity Health agree otherwise, shall the arbitrator consolidate more than one person’s claims, or otherwise preside over any form of representative, collective, or class proceeding. The parties may select a different arbitration administrator, forum, and/or third party neutral upon mutual written agreement.

To commence an arbitration proceeding, you must send an arbitration demand to the GAC and serve a courtesy copy to Proximity Health, located in [Accra, Ghana](#), with an electronic copy sent to [support@proximityhealth.org](mailto:support@proximityhealth.org), or we must send an arbitration demand to GAC and serve a courtesy copy on you at the most current address we have on file (which may be an email address). The physical courtesy copy must be accompanied by a certification of completion of the informal dispute resolution process and a copy of the notice.

Any complaint or arbitration demand must be accompanied by a copy of the Pre-Arbitration Notice, and a certification personally signed by you or your attorney, if you are represented by legal counsel (if you are initiating arbitration) or by a Proximity Health representative or our attorney, if we are represented by legal counsel (if we are initiating arbitration). By filing a complaint or arbitration demand, the party and its attorney initiating the arbitration represent that to the best of their information, knowledge, and belief, formed after a reasonable inquiry that: (a) the arbitration demand is not being presented for any improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of dispute resolution; (b) the claims or other legal contentions are warranted by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law or for establishing new law; and (c) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after reasonable opportunity for further investigation or discovery. The arbitrator is expressly authorized to impose any sanctions available under Federal

Rule of Civil Procedure 11 on represented parties and their counsel if the arbitrator determines that a frivolous and/or improper claim was initiated by parties and/or their counsel.

### **17.3 Cost of Arbitration**

The Rules will govern payment of all arbitration fees as modified by this Arbitration Agreement, unless the parties mutually agree to a different arbitration provider. You and we agree that the parties have a shared interest in reducing the fees and costs and increasing the efficiencies associated with arbitration. Therefore, you or we may elect to engage with the GAC regarding fees, and you and we agree that the parties (and your and our counsel, if you and we are represented) will work together in good faith to ensure that arbitration remains cost-effective for all parties.

The arbitration will be conducted by a single arbitrator who will apply these Terms of Service as a court would and will adjudicate any Dispute according to applicable law and facts based upon the record only.

Although under some laws Proximity Health may have a right to an award of attorneys' fees and non-filing fee expenses if it prevails in an arbitration, Proximity Health will not seek its attorneys' fees and costs in arbitration unless the arbitrator determines that your claim is frivolous or that you or your counsel have violated the standards of High Court (Civil Procedure) Rules, 2004 (C.I. 47), which the parties agree shall be applicable in arbitration. The cost-shifting provisions of High Court (Civil Procedure) Rules, 2004 (C.I. 47) shall also apply and be enforced by the arbitrator after entry of an award. An award that has been satisfied may not be entered in court. Proximity Health will consider a request to reimburse the consumer filing fee upon a demonstration of financial hardship.

UNLESS BOTH YOU AND WE AGREE OTHERWISE, ALL CLAIMS AND DISPUTES WITHIN THE SCOPE OF THIS ARBITRATION AGREEMENT MUST BE ARBITRATED OR LITIGATED ON AN INDIVIDUAL BASIS AND NOT ON A CLASS, REPRESENTATIVE, COLLECTIVE, OR PRIVATE ATTORNEY GENERAL BASIS. CLAIMS OF MORE THAN

ONE PERSON CANNOT BE ARBITRATED JOINTLY OR BE CONSOLIDATED WITH THOSE OF ANY OTHER PERSON. ADDITIONALLY, YOU AND PROXIMITY HEALTH AGREE THAT THE ARBITRATOR MAY AWARD INDIVIDUAL RELIEF AVAILABLE IN COURT (INCLUDING, WITHOUT LIMITATION, DAMAGES, DECLARATORY, INJUNCTIVE, OR OTHER EQUITABLE RELIEF) ONLY IN FAVOR OF THE INDIVIDUAL PARTY SEEKING RELIEF AND ONLY TO THE EXTENT NECESSARY TO PROVIDE RELIEF WARRANTED BY THAT PARTY'S PARTICULAR CLAIM. THE ARBITRATOR MAY NOT ISSUE A "PUBLIC INJUNCTION." THE ARBITRATOR DOES NOT HAVE THE POWER TO VARY THESE CLASS ACTION WAIVER PROVISIONS. IF, FOR ANY REASON, A COURT OF COMPETENT JURISDICTION HOLDS THAT THESE RESTRICTIONS ARE UNENFORCEABLE WITH RESPECT TO A PARTICULAR CLAIM OR REQUEST FOR RELIEF (SUCH AS A REQUEST FOR PUBLIC INJUNCTIVE RELIEF OR ANY PRIVATE ATTORNEY GENERAL CLAIM), AND ALL APPEALS FROM THAT DECISION HAVE BEEN EXHAUSTED (OR THE DECISION IS OTHERWISE FINAL), THE PARTIES AGREE THAT THE PARTICULAR CLAIM OR REQUEST FOR RELIEF MAY PROCEED IN A COURT OF COMPETENT JURISDICTION BUT SHALL BE STAYED PENDING ARBITRATION OF ALL REMAINING CLAIMS AND REQUESTS FOR RELIEF.

#### **17.4 Additional Procedures for Coordinated Disputes/Filings**

You and Proximity Health agree that these procedures (in addition to all others provided in this Section) shall also apply if your claim is part of a "Mass Filing" (defined below).

If 25 or more similar Disputes (including yours) are asserted against Proximity Health by the same or coordinated counsel or are otherwise coordinated ("Mass Filing"), the GAC's Mass Arbitration Supplementary Rules and the additional procedures set forth herein shall apply. You understand and agree that by choosing to be part of a Mass Filing, these additional procedures shall apply, and the resolution of your Dispute might be delayed. The parties agree that throughout this process, their counsel shall meet and confer in an effort to informally resolve the Disputes, streamline procedures,

address the informal exchange of information, modify the number of Disputes to be adjudicated and to promote efficiency, conservation of resources, and the resolution of claims.

If your claim is part of a Mass Filing, the statute of limitations applicable to the claims and relief set forth in that Notice shall be tolled from the date the Pre-Arbitration Notice is received until your Dispute proceeds in arbitration or is settled, withdrawn, otherwise resolved, or opted out of arbitration pursuant to this Section.

A court of competent jurisdiction shall have the authority to enforce these Additional Procedures for Coordinated Disputes/Filings Section of the Arbitration Agreement, including by enjoining the Mass Filing, the prosecution or administration of arbitrations, and the assessment or collection of arbitration fees.

The Additional Procedures for Coordinated Disputes/Filings Section of the Arbitration Agreement and each of its requirements are essential parts of this Arbitration Agreement. If, after exhaustion of all appeals, a court of competent jurisdiction decides that this Section applies to your Dispute and is not enforceable, then your Dispute shall not proceed in arbitration and shall only proceed in a court of competent jurisdiction consistent with the remainder of the Terms of Service.

STAGE ONE: Assuming there are at least 50 Disputes submitted as part of the Mass Filing, your counsel and our counsel shall each select 25 Disputes (per side) to proceed as cases in individual arbitration proceedings as part of an initial staged process. Alternatively, either side's counsel may elect to have their 25 cases selected randomly. The number of Disputes to be selected to proceed as part of this initial staged process can be increased by agreement of counsel for the parties (and if there are fewer than 50 Disputes, all shall proceed individually in Stage One). Each of the 50 (or fewer) cases shall be assigned to a different arbitrator and proceed in individual arbitrations. If a case is withdrawn without the consent of both parties, then another Dispute shall be selected consistent with the selection process referenced above to

proceed as part of this Stage One. The remaining Disputes shall not be filed or deemed filed in arbitration nor shall any arbitration fees be assessed or collected in connection with those claims until they are selected to proceed to individual arbitration proceedings as part of a staged process. If after this initial set of proceedings the parties are unable to informally resolve the remaining Disputes, they shall participate in a global mediation session with a retired federal or state court judge to be jointly selected by counsel for the parties in an effort to resolve the remaining Disputes (as informed by the adjudications of cases in Stage One), and Proximity Health shall pay the mediator's fee.

STAGE TWO: If the remaining Disputes have not been resolved at the conclusion of Stage One, counsel for the claimants and counsel for Proximity Health shall each select 50 Disputes per side to be filed and to proceed as cases in individual arbitrations as part of a second staged process, subject to any procedural changes the parties agree to in writing following mediation or through continuing, good faith discussions. Alternatively, either side's counsel may elect to have their 50 Disputes selected randomly. The number of Disputes to be selected to proceed as part of this second staged process can be increased by agreement of counsel for the parties (and if there are fewer than 100 Disputes, all shall proceed individually in Stage Two). No more than 3 cases may be assigned to a single arbitrator to proceed individually unless the parties agree otherwise. If a case is withdrawn without the consent of both parties, then another Dispute shall be selected consistent with the selection process referenced above to proceed as part of this Stage Two. The remaining Disputes shall not be filed or deemed filed in arbitration nor shall any arbitration fees be assessed or collected in connection with those claims. After this second set of staged proceedings is completed, the parties shall engage in a global mediation session of all remaining Disputes with a retired federal or state court judge to be jointly selected by counsel for the parties in an effort to resolve the remaining Disputes (as informed by the adjudications of cases in Stages One and Two), and Proximity Health shall again pay the mediator's fee.

Upon the completion of the global mediation session set forth in Stage Two, each remaining Dispute (if any) that is not settled or not withdrawn shall proceed with the adjudication of the remaining Disputes in individual arbitration proceedings

consistent with the process set forth in Stage Two (except Disputes shall be randomly selected and mediation shall be elective by agreement of counsel for the parties) or through another mutually-agreeable process.

A court of competent jurisdiction shall have the authority to enforce this staging requirement of the Arbitration Agreement, including by enjoining the Mass Filing, the prosecution or administration of arbitrations, and the assessment or collection of arbitration fees.

### **17.5 Waiver of Jury Trial; Waiver of Class Actions**

TO THE FULLEST EXTENT PERMISSIBLE BY APPLICABLE LAW, YOU AND PROXIMITY HEALTH WAIVE ANY CONSTITUTIONAL AND STATUTORY RIGHTS TO GO TO COURT AND HAVE A TRIAL IN FRONT OF A JUDGE OR JURY. YOU AND PROXIMITY HEALTH ALSO WAIVE ANY RIGHT TO BRING OR PARTICIPATE IN A CLASS ACTION IN ARBITRATION OR IN LITIGATION IN COURT. You and Proximity Health are instead choosing to have claims and disputes resolved by arbitration. Arbitration procedures are typically more limited, more efficient, and less costly than rules applicable in court and are subject to very limited review by a court. In any litigation between you and Proximity Health over whether to vacate or enforce an arbitration award, YOU AND PROXIMITY HEALTH WAIVE ALL RIGHTS TO A JURY TRIAL, and elect instead to have the dispute be resolved by a judge.

NOTWITHSTANDING THE FOREGOING, THE PARTIES RETAIN THE RIGHT TO PARTICIPATE IN A CLASS-WIDE SETTLEMENT. ALL CLAIMS AND DISPUTES WITHIN THE SCOPE OF THIS ARBITRATION AGREEMENT MUST BE BROUGHT IN THE PARTIES' INDIVIDUAL CAPACITY, AND NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED CLASS ACTION, COLLECTIVE ACTION, PRIVATE ATTORNEY GENERAL ACTION OR OTHER REPRESENTATIVE PROCEEDING. THIS WAIVER APPLIES TO CLASS ARBITRATION. If however, this waiver of class or consolidated actions is deemed invalid or unenforceable, neither you nor Proximity Health is entitled to arbitration; instead all claims and disputes will be resolved in a court as set forth in Section 17.7 (Exclusive Venue) below.

### **17.6 Opt-out**

You have the right to opt out of the provisions of this Section by sending written notice of your decision to opt out to the following address: Proximity Health, Attn: Legal, (Accra, Ghana), postmarked within thirty (30) days of first accepting these Terms of Service. You must include (i) your name and residence address, (ii) the email address and/or telephone number associated with your account, and (iii) a clear statement that you want to opt out of this Agreement's Arbitration Agreement.

### **17.7 Exclusive Venue**

If you send the opt-out notice described in Section 17.6, and/or in any circumstances where the foregoing Arbitration Agreement permits either you or Proximity Health to litigate any dispute arising out of or relating to the subject matter of these Terms in court, then the foregoing Arbitration Agreement will not apply to either party, and both you and Proximity Health agree that any judicial proceeding (other than small claims actions) will be brought in the state or federal courts located in, respectively, Ghana, or the jurisdiction involved.

### **17.8 Severability**

Except as specifically provided in the Arbitration Agreement (e.g., the Additional Procedures for Coordinated Disputes/Filings), if any part or parts of this Arbitration Agreement is/are found by a court of competent jurisdiction to be invalid or unenforceable as to your Dispute, such specific part or parts shall be of no force and effect and shall be severed, and the remainder of the Arbitration Agreement shall continue in full force and effect. This Arbitration Agreement will survive the termination of your relationship with Proximity Health and/or these Terms of Service.

### **17.9 Future Changes to Arbitration Agreement**

If we make any future changes to this Arbitration Agreement (other than a change to our mailing or email address), you may reject any such change by sending your personally signed, written notice to the following address: (ADDRESS HERE), postmarked within 30 days of the change, with a copy sent via email to support@proximityhealth.org. Such written notice does not constitute an opt-out of arbitration altogether. By rejecting any future change, you are agreeing that you will arbitrate any Dispute between you and Proximity Health in accordance with this version of the Arbitration Agreement.

## **18. MISCELLANEOUS**

### **18.1 Electronic Contracting; Copyright Dispute**

Your affirmative act of using the Services and/or creating a Proximity Health Account constitutes your electronic signature to this Agreement, which includes our Privacy Policy, Acceptable Use Policy and Community Standards. This Agreement and any other documents to be delivered in connection with the Services may be electronically signed, and any electronic signatures appearing on this Agreement or such other documents are the same as handwritten signatures for the purposes of validity, enforceability, and admissibility.

Please visit our [Acceptable Use Policy](#) to review our copyright dispute policy.

### **18.2 Phone/ Text Communications**

(a) Transactional Communications. By voluntarily providing your mobile phone number to Proximity Health and agreeing to receive text messages, you expressly agree that Proximity Health may contact you by telephone, SMS, or MMS messages (or successor protocols or technologies) for transactional, operational, or informational purposes, including

appointment confirmations, appointment reminders, and post-appointment feedback requests, at the phone number provided. Message and data rates may apply. Message frequency varies. Reply STOP to cancel or HELP for help.

(b) Marketing Communications. By opting in to receive recurring automated marketing calls or text messages (such as SMS, MMS, or successor protocols or technologies) from Proximity Health, you expressly agree to receive messages concerning the marketing and sale of our products, services, offers, promotions, and events, as well as your relationship with us, including your orders and the products and services that you have inquired about. You understand that consent is not required to make any purchase from us. Message and data rates may apply. Message frequency varies. Reply STOP to cancel or HELP for help.

(c) Representations; Indemnity: You represent and warrant that the mobile number provided to us is true and accurate, and that each person you register for the Services or for whom you provide a wireless phone number has consented to receive communications from Proximity Health. You agree to indemnify and hold Proximity Health harmless from and against any and all claims, liabilities, damages (actual and consequential), losses and expenses (including attorneys' fees) arising from or in any way related to your breach of the foregoing, including claims under the Federal Telephone Consumer Protection Act or any state law equivalents, as well as claims relating to your voluntary provision of a telephone number that is not owned by you and/or your failure to update your account information for any changes in your mobile telephone number.

(d) Participation Requirements. You must have a wireless device of your own, capable of two-way messaging, be using a participating wireless carrier, and be a wireless service subscriber with text messaging service. Not all mobile devices may be supported, and our messages may not be deliverable in all areas. Message and data rates from your mobile telephone service provider may apply and are subject to the terms and conditions imposed by your provider.

(e) Opt-Out Instructions. You can opt out of receiving transactional and/or marketing text messages at any time by adjusting your notification settings in your account, replying STOP, END, CANCEL, UNSUBSCRIBE, or QUIT to any message that you receive from us, or otherwise following the given instructions for doing so. You acknowledge and agree to accept a final text message confirming your opt-out. Note that opting out of receiving all texts may impact your use of the Services.

(f) Accurate Account Information. If you change phone number(s), you should update your Proximity Health account information and the phone number(s) attached to your account to assure we have up-to-date contact information, and any new phone number(s) you attach to your account may receive Proximity Health's standard SMS messages unless you also unsubscribe via the above procedures.

### **18.3 Limitation of Claims**

No action arising under or in connection with this Agreement, regardless of the form, may be brought by you more than one (1) year after the cause of action arose; actions brought thereafter are forever barred.

### **18.4 Severability**

In the event any one or more of the provisions of this Agreement shall for any reason be held to be invalid, illegal or unenforceable, the remaining provisions of this Agreement shall be unimpaired. Further, the invalid, illegal or unenforceable provision shall be replaced by a provision that comes closest to the intention of the parties that underlie the invalid, illegal or unenforceable provision, except to the extent no such provision is valid, legal and enforceable, in which case such invalid, illegal or unenforceable provision shall be limited or eliminated to the minimum extent necessary so that the other provisions of this Agreement remain in full force and effect.

### **18.5 Governing Law; Language**

This Agreement shall be deemed to have been entered into and shall be construed and enforced in accordance with the Arbitration Act, applicable law, and the laws of the Ghana as applied to contracts made and to be performed entirely within Ghana, without giving effect to the state's conflicts of law statute. This Agreement and all documents referenced herein were drafted in the English language and any translations thereof shall not be binding on either party to the extent they conflict with the English versions.

#### **18.6 Entire Agreement; Waiver**

This Agreement and any supplemental terms, policies, rules and guidelines posted through the Services, each of which are incorporated herein by reference, including the **Privacy Policy**, the Acceptable Use Policy, and the Community Standards, constitute the entire agreement between you and us and supersede all previous written or oral agreements. The failure of either party to exercise in any respect any right provided for herein shall not be deemed a waiver of any further rights hereunder.

#### **18.7 Headings**

The headings of the Sections of this Agreement are for convenience only, do not form a part hereof, and in no way limit, define, describe, modify, interpret or construe the meaning, scope or intent of this Agreement or any terms or conditions therein.

#### **18.8 Assignment**

We may assign this Agreement at any time, including, without limitation, to any parent, subsidiary, or any affiliated company, or as part of the sale to, merger with, or other transfer of our business or any assets to another entity. You may not assign, transfer or sublicense this Agreement to anyone else and any attempt to do so in violation of this Section shall be null and void.

### **18.9 Eligibility**

You must be 18 years of age or over, or the legal age to form a binding contract in your jurisdiction if that age is greater than 18 years of age, to create a Proximity Health Account or use the Services on your own. Those under the age of 13 may not use the Services. If you are between the ages of 13 and 18 or the applicable legal age in your jurisdiction, you can use the Services only under the supervision of your parent or guardian who has agreed to these Terms of Service. By using the Services on behalf of a minor child, you represent and warrant that you are the parent or legal guardian of such child, and that all references in these Terms of Service to “you” shall refer to such child or such other individual on whose behalf you have authorization to enter into these Terms of Service and you in your capacity as the parent or legal guardian of such child or as the authorized party of such individual.

If you do not qualify under these Terms of Service, you may not use the Services. Use of the Services is void where prohibited by applicable law, and the right to access the Services is revoked in such jurisdictions. By using the Services, you represent and warrant that you have the right, authority, and capacity to enter into these Terms of Service. The Services are administered in the Ghana and intended for Ghana users only; any use outside of the Ghana or use related to activities outside of the Ghana is prohibited and at the user’s own risk. Users are responsible for compliance with any local, state or federal laws applicable to their use of the Services.