

# Terms of Service (“TOS”)

Last Updated: March 1, 2020.

## 1. Definitions

"iGM" means iGuideMedical.com, Inc., whose principal place of business is at PO Box 1062 Rye, NH 03870.

"iGM PRO Initiative" (“iGuideMedical.com Patient Reported Outcome Initiative”) means research that iGM in conjunction with research partners, or iGM research partners perform.

iGM PRO Initiative may be sponsored by, conducted on behalf of, in collaboration with, or conducted by third parties, such as non-profit foundations, academic institutions, industry or pharmaceutical companies. iGM PRO Initiative may study a specific group or population, identify potential areas or targets for products and/or therapeutics development, conduct or support the development of drugs, diagnostics or devices to diagnose, predict or treat medical or other health conditions, work with public, private and/or non-profit entities on research initiatives, or otherwise create, commercialize, and apply this new knowledge to improve health care and quality of life. iGM PRO Initiative uses Aggregated Individual-level and/or Self-Reported Information as specified iGM PRO Initiative Consent, as explained in greater detail below.

iGM PRO Initiative only uses Individual Information and Self-Reported Information from Users who have given informed consent according to the applicable iGM PRO Initiative iGM PRO Initiative Consent Document.

"Product Development" means research performed for the purpose of new product development and new product development activities performed by iGM on De-identified Information. These activities may include, among other things, improving our Services and/or offering new products or services to you; performing quality control activities; conducting data analysis that may lead to and/or include commercialization with a third party.

"Service" or "Services" means iGM's products, software, services, and Service (including but not limited to text, graphics, images, and other material and information) as accessed from time to time by the User, regardless if the use is in connection with an account or not.

"Personal Information" is information that can be used to identify you, either alone or in combination with other information. iGM collects and stores the following types of Personal Information:

"Registration Information" is the information you provide about yourself when registering for and/or purchasing items from the Marketplace (e.g. name, email, address, User ID and password, and payment information).

"Individual-level Information" is information a User enters into the Service relating to that single person.

"Self-Reported Information" information you provide to us, either through the Services or through a third party, including all User input relating to Activities, Self-Assessments and other forms presented by the Service with which the User has chosen to interact with while signed in to a Service or that you authorize a third party to provide to iGM.

"De-identified Information" information that has been stripped of your Registration Information (e.g., your name and contact information) and other identifying data such that you cannot reasonably be identified as an individual, also known as pseudonymized information.

"User Content" is all information, data, text, software, music, audio, photographs, graphics, video, messages, or other materials, other than Self-Reported Information, generated by Users of the Services and transmitted, whether publicly or privately, to or through iGM.

"Web Behavior Information" is information on how you use the iGM Service (e.g. browser type, domains, page views) collected through log files, cookies, and web beacon technology.

"Aggregated Self-Reported Information" is Self-Reported Information that has been combined with that of other Users and analyzed or evaluated as a whole, such that no specific individual may be reasonably identified.

"User(s)/Customer(s)/Member(s)" ("User(s)") refers to you and/or a group of people like you who are engaged with the Service

"Services" or "Service" refers to Services, mobile apps, products, software and/or content iGuideMedical.com, Inc. ("iGM") makes available to Users.

## 2. Acceptance of Terms

Your use of the Services (excluding any services provided by iGM under a separate agreement) is subject to the terms of the legal agreement between you and iGM set forth in these Terms of Service ("TOS"). Except as specified herein, these TOS apply to any use of the Services, including but not limited to entering and uploading any information or digital and interacting with it on the iGM Service. In order to use the Services, you must first agree to the TOS. You may not use the Services if you do not accept the TOS. You can accept the TOS by (1) clicking to accept or agree to the TOS, where this option is made available to you by iGM for any Service; or by (2) actually using the Services. In this case, you acknowledge and agree that iGM will treat your use of the Services as acceptance of the TOS from that point onwards. In addition, when using particular Services, you shall be subject to any guidelines or rules applicable to such Services that may be posted from time to time. All such guidelines or rules are hereby incorporated by reference into the TOS. iGM also may offer other services from time to time that are governed by different terms of service.

### 3. Prerequisites

You may not use the Services and may not accept the TOS if you are a person barred from receiving the Services under the laws of the jurisdiction in which you are resident or from which you use the Services.

You must be eighteen (18) years of age or older to agree to these TOS on behalf of yourself.

### 4. Description of the Services

The Services include access to the iGM public Services, mobile apps, products, software and/or content iGM makes available to Users. Unless explicitly stated otherwise, each new feature that augments or enhances the current Service shall be subject to the TOS. You acknowledge and agree that the Services are provided "AS-IS" and are based on the current state of the art technology in use by iGM at the time of input, viewing or other use. You acknowledge and agree that the form and nature of the Services which iGM provides may change from time to time without prior notice to you. As part of this continuing innovation, you acknowledge and agree that iGM may stop (permanently or temporarily) providing some Services (or any features within the Services) to Users generally at iGM's sole discretion, without prior notice to you. You may stop using the Services at any time. You do not need to specifically inform iGM when you stop using the Services. iGM assumes no responsibility for the use of Services outside the terms of this TOS or other applicable terms.

In order to use the Services, you must obtain Internet access, either directly or through devices that access web-based content, and pay any service fees associated with such access. You are solely responsible for paying such fees. In addition, you must provide all equipment necessary to make such Internet connection, including a computer and modem or other access device. You are solely responsible for providing such equipment. You acknowledge and agree that while iGM may not currently have set a fixed upper limit on the number of transmissions you may send or receive through the

Services or on the amount of storage space used for the provision of any Service, such fixed upper limits may be set by iGM at any time, at iGM's discretion.

## 5. Risks and Considerations Regarding iGM Services

**iGM Services are for informational and educational and potentially research uses only. We do not provide medical advice. Participation in any research is voluntary and based upon a consent document. The Services are not intended to be used by the customer for any diagnostic purpose and are not a substitute for professional medical advice. You should always seek the advice of your physician or other health care provider with any questions you may have regarding diagnosis, cure, treatment, mitigation, or prevention of any disease or other medical condition or impairment or the status of your health.**

iGM does not endorse, warranty or guarantee the effectiveness of any specific course of action, resources, tests, physician or other health care providers, drugs, biologics, medical devices or other products, procedures, opinions, or other information that may be mentioned or presented through our Services. If we provide to you through our Services any recommendations that identify for you, based on your Individual-level Information, Self-Reported Information and/or scientific literature or research, potentially actionable information, this information is intended for informational purposes only and for discussion with your physician or other healthcare provider. **iGM believes that only a physician or other health care provider can assess your current state of health or disease, taking into account many factors, including your current condition and symptoms if any.**

**Reliance on any information provided by iGM, iGM employees, others appearing through our Services at the invitation of iGM, or other visitors to our Service is solely at your own risk.**

## 6. User Representations

By accessing iGM Services, you agree to, acknowledge, and represent as follows:

**You understand that information presented to you through the Service is not designed to independently diagnose, prevent, or treat any condition or disease or to ascertain the state of your health in the absence of medical and clinical information. You understand that the iGM Services are intended for informational, educational and potentially research purposes only. You acknowledge that iGM urges you to seek the advice of your physician or other health care provider if you have questions or concerns arising from information presented to you from the Service.**

You represent that you are eighteen (18) years of age or older.

You agree that any information you provide and all resulting data may be transferred and/or processed outside the country in which you reside.

You are warranting that you are not an insurance company or an employer attempting to obtain information about an insured person or an employee.

You are aware that some of the information you receive may provoke strong emotion.

You take responsibility for all possible consequences resulting from your sharing any of your Service related information with others.

You understand that all your Personal Information will be stored in iGM databases and will be processed in accordance with the iGM Privacy Statement.

**Waiver of Property Rights:** You understand that by providing Individual-level Information and Self-Reported Information, you acquire no rights in any research or commercial products that may be developed by iGM or its collaborators. You specifically understand that you will not receive compensation for any research or commercial products that include or result from your Self-Reported Information.

You agree that you have the authority, under the laws of the state or jurisdiction in which you reside, to provide these representations. In case of breach of any one of these representations, iGM has the right to suspend or terminate your account and refuse any and all current or future use of the Services (or any portion thereof) and you will defend and indemnify iGM and its affiliates against any liability, costs, or damages arising out of the breach of the representation.

## 7. Account Creation, Customer Account, Password, and Security Obligations

In consideration of your use of the Services, you agree to: (a) provide true, accurate, current, and complete Registration Information about yourself as prompted by the Service; and (b) maintain and promptly update the Registration Information to keep it true, accurate, current, and complete. If you provide any Registration Information that is untrue, inaccurate, not current, or incomplete, or if iGM has a reasonable ground to suspect that such information is untrue, inaccurate, not current, or incomplete, iGM has the right to suspend or terminate your account and refuse any and all current or future use of the Service (or any portion thereof).

While registering for the Service, you will create a Username and password. You are responsible for maintaining the confidentiality of your Username and password, and are fully responsible for all activities that occur under your iGM account. If you allow third parties to access iGM's Service through your Username and password, you will defend and indemnify iGM and its affiliates against any liability, costs, or damages, including attorney fees, arising out of claims or suits by such third parties based upon or relating to such access and use. You agree to (a) immediately notify iGM of any unauthorized use of your password or account or any other breach of security, and (b) ensure that you sign out from your account at the end of each session. iGM cannot and will not be liable for any loss or damage arising from your failure to comply with this Section.

## 8. iGM Privacy Statement and Disclosure of Information

In order to use the Services, you must first acknowledge and agree to the Privacy Statement. You may not use the Services if you do not accept the Privacy Statement. You can acknowledge and agree to the Privacy Statement by (1) clicking to accept or agree to the Privacy Statement, where this option is made available to you by iGM for any Service; or by (2) actually using the Services.

You acknowledge and agree that iGM has the right to monitor any use of its systems by its personnel at any time and maintain copies documenting such monitoring. Our Privacy Statement sets forth the only expectations of privacy any individual should have in terms of usage of the iGM Services, Service, or other systems. If you have given consent for your personally identifiable Individual-level Information and Self-Reported Information to be used in iGM PRO Initiative as described in the applicable iGM PRO Initiative Consent Document, we may disclose your information to third parties as described in the applicable iGM PRO Initiative Consent Document. iGM PRO Initiative may be sponsored by, conducted on behalf of, or in collaboration with third parties, such as for and not for profit companies and foundations, academic institutions or pharmaceutical companies. iGM PRO Initiative may study a specific group or population, identify potential areas or targets for therapeutics development, conduct or support the development of drugs, diagnostics, services or devices to diagnose, predict or treat medical or other conditions, work with public, private and/or non-profit entities on research initiatives, or otherwise create, commercialize, and apply this new knowledge to improve health care and the quality of life. iGM will never release any personally identifiable Individual-level and/or Self-Reported Information to any third party without asking for and receiving your explicit consent to do so, unless required by law.

Further, you acknowledge and agree that iGM is free to preserve and disclose any and all Personal Information to law enforcement agencies or others if required to do so by law or in the good faith belief that such preservation or disclosure is reasonably necessary to: (a) comply with legal process (such as a judicial proceeding, court order, or government inquiry) or obligations that iGM may owe pursuant to ethical and other professional rules, laws, and regulations; (b) enforce the iGM TOS; (c) respond to claims that any content violates the rights of third parties; or (d) protect the rights, property, or personal safety of iGM, its employees, its Users, its clients, and the public. In such event we will notify you

through the contact information you have provided to us in advance, unless doing so would violate the law or a court order. You understand that the technical processing and transmission of the Services, including your Personal Information, may involve (a) transmissions over various networks; and (b) changes to conform and adapt to technical requirements of connecting networks, or devices. Finally, iGM may, in its sole discretion, restrict access to the Service for any reason.

Please refer to our Privacy Statement to read about data protection related to your information.

## 9. Limited License

You acknowledge that all User Content, whether publicly posted or privately transmitted, is the sole responsibility of the person from which such User Content originated. This means that you, and not iGM, are entirely responsible for all User Content that you upload, post, email, or otherwise transmit via the Service.

You acknowledge that the Services content presented to you as part of the Services, whether original iGM Services content or sponsored content within the Services, is protected by copyright and/or other intellectual property rights that are owned by iGM and/or the sponsors who provide that content to iGM (or by other persons or companies on their behalf). iGM grants you a Limited License to copy and distribute free of charge, for non-commercial purposes only, any of the Services content with the exception of any content marked as not subject to this Limited License on the Service, provided you: (i) provide the Services content as it appears on the iGM Service with no changes including but not limited to presenting selections which might tend to misrepresent the substance of the Services content; (ii) include the following attribution on the first page of any materials you distribute: © iGM, Inc. 2019-2020. All rights reserved; distributed pursuant to a Limited License from iGM; and (iii) agree you have no right to offer anyone else any further right with respect to this Services content. Aside from the Limited License provided in this paragraph, you may not modify, rent, lease, loan, sell, distribute, or create derivative works based on this Services content (either in whole or in part) unless you have been specifically told that you may do so by iGM or by the owners of that content, in a separate agreement.

## 10. Customer Conduct - Unlawful and Prohibited Use

As a condition of your use of the Services, you warrant to iGM that you will not use the Services for any purpose that is unlawful or prohibited by these terms, conditions, or notices. You may not use the Services in any manner that could damage, disable, overburden, or impair the Services or interfere with any other party's use and enjoyment of the Services. You may not obtain or attempt to obtain any materials or information through any means not intentionally made available or provided for through the Services. Furthermore you agree not to use the Services to: (1) upload, post, email, or otherwise transmit any material that is derogatory, defamatory, obscene, or offensive, such as slurs, epithets, or anything that might reasonably be construed as harassment or disparagement based on race, color, national origin, sex, sexual orientation, age, disability, religious or political beliefs, or other statutorily

protected status; (2) impersonate any person or entity, including, but not limited to, anyone affiliated with iGM, or falsely state or otherwise misrepresent your affiliation with a person or entity; (3) add your own headers, forge headers, or otherwise manipulate identifiers in order to disguise the origin of any content transmitted through the Service; (4) "stalk" or otherwise harass another; (5) upload, post, email, or otherwise transmit any content that you do not have a right to transmit under any law or under contractual or fiduciary relationships (such as inside information, proprietary and confidential information learned or disclosed as part of employment relationships or under nondisclosure agreements); (6) use any information received through the Services to attempt to identify other customers, to contact other customers (other than through features for contacting other Users), or for any forensic use; (7) download any file posted by another User of the Service that you know, or reasonably should know, cannot legally be distributed in such manner; (8) upload, post, email or otherwise transmit any content that infringes any patent, trademark, trade secret, copyright, or other proprietary rights ("Rights") of iGM or any other party; (9) harm minors in any way; (10) advertise or offer to sell or buy any goods or services for any business purpose, unless such area specifically allows such messages; (11) upload, post, email, or otherwise transmit any unsolicited or unauthorized advertising, promotional materials, "junk mail," "spam," "chain letters," "pyramid schemes," or any other form of solicitation, except in those areas that are designated for such purpose and only to the extent such content is authorized by law; (12) upload, post, email, or otherwise transmit any material that contains software viruses or any other computer code, files, or programs designed to interrupt, destroy, or limit the functionality of any computer software or hardware or telecommunications equipment; (13) use manual or automated software, devices, scripts robots, other means or processes to access, "scrape," "crawl" or "spider" any web pages or other services contained in the site, unless explicitly permitted by iGM; (14) engage in "framing," "mirroring," or otherwise simulating the appearance or function of iGM's Service; (15) attempt to or actually override any security component of iGM web services; (16) interfere with or disrupt the Service or servers or networks connected to the Service, or disobey any requirements, procedures, policies, or regulations of networks connected to the Service; (17) violate these Terms of Service, any code of conduct or other guidelines which may be applicable for any particular area of the Service or have been communicated to you by anyone affiliated with iGM; or (18) intentionally or unintentionally violate any applicable local, state, national, or international law, or any regulations having the force of law.

You acknowledge and agree that you are solely responsible for (and that iGM has no responsibility to you or to any third party for) any breach of your obligations under the TOS and for the consequences (including any loss or damage which iGM may suffer) of any such breach. In case of breach of any one of these agreements iGM has the right to suspend or terminate your account and refuse any and all current or future use of the Services (or any portion thereof) and you will defend and indemnify iGM and its affiliates against any liability, costs, or damages arising out of the breach of the representation.

If you violate the terms of this Section and/or iGM has a reasonable ground to suspect that you have violated the terms of this Section, iGM has the right to suspend or terminate your account and refuse any and all current or future use of the Service (or any portion thereof).

## 11. Export Control and Applicable Laws and Regulations

Recognizing the global nature of the Internet, you agree to comply with all local rules regarding online conduct and acceptable content. Specifically, you agree that you will comply with all applicable laws regarding the transmission of technical data exported from the United States or the country from which you access any Service online.

## 12. Material Posted Through The Service

iGM will not, at all times, control any of the User Content posted via the Service and, as such, does not guarantee the accuracy, integrity, or quality of such non-iGM content. You understand that by using the Services, you may be exposed to content that is offensive, indecent, or objectionable. Under no circumstances will iGM be liable in any way for any non-iGM content, including, but not limited to, any errors or omissions in any such content, or for any loss or damage of any kind incurred as a result of the use of any such content posted, emailed, or otherwise transmitted via the Services.

You acknowledge that iGM and its designees shall have the right (but not the obligation) in their sole discretion to pre-screen, review, filter, modify, refuse, or move any content that is available via the Services. Without limiting the foregoing, iGM and its designees shall have the right to remove any content that violates the TOS or is deemed by iGM, in its sole discretion, to be otherwise objectionable. You acknowledge and agree that you must evaluate, and bear all risks associated with, the use of any content, including any reliance on the accuracy, completeness, or usefulness of such content.

## 13. Material Provided to iGM - Your Proprietary Rights

iGM does not claim ownership of the User Content you provide to iGM (including feedback and suggestions) or post, upload, input, or submit to the Service. Unless otherwise specified, you retain copyright and any other rights you already hold over User Content that you create and submit, post, or display on or through the Services. However, by submitting, posting, or displaying User Content, you give iGM, its affiliated companies, sublicensees (including but not limited to sublicensees who avail themselves of the Limited License granted in Section 9 above) and successors and assigns a perpetual, irrevocable, worldwide, royalty-free, and non-exclusive license to reproduce, adapt, modify, translate, publish, publicly perform, publicly display, distribute, reproduce, edit, reformat, and create derivative works from any User Content that you submit, post, or display on or through the Services. You acknowledge and agree that this license includes a right for iGM to make such User Content available to other companies, organizations, or individuals with whom iGM has relationships, and to use such User Content in connection with the provision of those services.

You understand that iGM, in performing the required technical steps to provide the Services to our Users, may (a) transmit or distribute your User Content over various public networks and in various media; and (b) make such changes to your content as are necessary to conform and adapt that content

to the technical requirements of connecting networks, devices, services, or media. You acknowledge and agree that this license shall permit iGM to take these actions. You represent and warrant to iGM that you have all the rights, power, and authority necessary to grant the above license.

Individual-level Information and Self-Reported Information. Disclosure of Individual-level Information and Self-Reported Information to third parties for Research purposes will not occur without explicit consent. Note that iGM cannot control any further distribution of Individual-level Information and/or Self-Reported Information that you share publicly on the iGM Service. You acknowledge and agree that you are responsible for protecting and enforcing your rights and that iGM has no obligation to do so on your behalf.

You understand that you should not expect any financial benefit from iGM as a result of having your Individual-level Information and Self-Reported data included in any Aggregated Self-Reported Information shared with any research collaborator.

Waiver of Property Rights. As stated above, you understand that by providing Individual-level Information and Self-Reported Information, you acquire no rights in any research or commercial products that may be developed by iGM or its collaborating partners. You specifically understand that you will not receive compensation for any research or commercial products that include or result from your Individual-level Information and Self-Reported Information.

#### 14. Indemnity

You agree to defend and hold iGM, and its subsidiaries, affiliates, officers, agents, contractors, partners, employees, successors, and assigns harmless from any claim, or demand, including reasonable attorneys' fees, made by any third party due to or arising out of User Content you submit, post to, or transmit through the Service; your use of the Service; your connection to the Service; your violation of the TOS; or your violation of any rights of another.

If you choose to provide your Individual-level Information and Self-Reported Information to third parties whether individuals to whom you facilitate access, intentionally or inadvertently, or to third parties for diagnostic or other purposes, you agree to defend and hold harmless iGM, its employees, contractors, successors, and assigns from any and all liability arising from such disclosure or use of your Individual-level Information and Self-Reported Information.

#### 15. No Resale of Service

Other than pursuant to the terms of the Limited License in Section 9 of this TOS or unless otherwise agreed in a separate agreement between you and iGM, you agree not to display, distribute, license,

perform, publish, reproduce, duplicate, copy, create derivative works from, modify, sell, resell, exploit, transfer, or transmit for any commercial purposes, all or any portion of the Service, use of the Service, or access to the Service.

#### 16. General Practices Regarding Use and Storage

You acknowledge that iGM may establish general practices and limits concerning use of the Services, including without limitation the maximum number of days that Personal Information and User Content will be retained by the Service, the maximum disk space that will be allotted on iGM's servers on your behalf, and the maximum number of times (and the maximum duration for which) you may access the Services in a given period of time. You acknowledge and agree that iGM has no responsibility or liability for the deletion of or failure to store any messages, other communications, or other content maintained or transmitted by the Services; or for the loss of User Content due to malfunction or destruction of data servers or other catastrophic events. You further acknowledge that iGM reserves the right to change these general practices and limits in its sole discretion.

#### 17. Modifications to Service

iGM reserves the right at any time and from time to time to modify or discontinue, temporarily or permanently, the Services (or any part thereof) with or without notice. You acknowledge and agree that (i) modifications may result in a delay in computations for some of the iGM features or Services, and (ii) iGM shall not be liable to you or to any third party for any modification, suspension, or discontinuance of the Services.

Software that you may use from time to time may automatically download and install updates from iGM. These updates are designed to improve, enhance, and further develop the Services and may take the form of bug fixes, enhanced functions, new software modules, and completely new versions. You agree to receive such updates (and permit iGM to deliver these to you) as part of your use of the Services.

You acknowledge that iGM may offer different or additional technologies or features to collect and/or interpret User Content in the future and that your initial use of the current Service does not entitle you to any different or additional technologies or features for collection or interpretation of your User Content without fee, and that you will have to pay additional fees in order to have your User Content collected, processed, and/or interpreted using any future or additional technologies or features.

#### 18. Termination

The TOS will continue to apply until terminated by either you or iGM as set out in this Section.

If you want to terminate your legal agreement with iGM, you may do so by deleting your iGM account and data within your Profile Account Settings. Once you submit your request, we will send an email to the email address linked to your iGM account asking you to confirm your request. Upon receiving your confirmation from you that you are requesting iGM to delete your account we will process your request to delete your data, and you will no longer be able to sign-in to your account.

iGM may at any time, terminate its legal agreement with you (and in conjunction therewith, your password and account(s)) if: (1) you have breached any provision of the TOS (or have acted in manner which shows that you do not intend to, or are unable to comply with, the provisions of the TOS); (2) iGM is required to do so by law (for example, where the provision of the Services to you is, or becomes, unlawful); (3) the partner with whom iGM offered the Services to you has terminated its relationship with iGM or ceased to offer the Services to you; (4) iGM is transitioning to no longer providing the Services to Users in the country or state in which you reside or from which you use the Services; or (5) the provision of the Services to you by iGM is, in iGM's opinion, no longer commercially viable.

Any suspected fraudulent, abusive, or illegal activity that may be grounds for termination of your use of the Services may be referred to appropriate law enforcement authorities. You acknowledge and agree that iGM shall not be liable to you or any third party for any termination of your access to the Services.

#### 19. Survival of Terms

When the TOS come to an end, all of the legal rights, obligations, and liabilities that you and iGM have benefited from, been subject to (or which have accrued over time while the TOS have been in force) or which are expressed to continue indefinitely, shall be unaffected by this cessation, and the provisions of Sections 1.(Definitions); 2.(Acceptance of Terms); 3.(Prerequisites); 4.(Description of the Services); 5.(Risks and Considerations Regarding iGM Services); 6.(User Representations); 7.(Account Creation, Customer Account, Password and Security Obligations); 8.(iGM Privacy Statement and Disclosure of Information); 10.(Customer Conduct - Unlawful and Prohibited Use); 11.(Export Control and Applicable Laws and Regulations); 12.(Material Posted through the Service); 13.(Material Provided to iGM - Your Proprietary Rights); 14.(Indemnity); 15.(No Resale of Services); 18.(Termination); 19.(Survival of Terms); 20.(Dealings with Information Providers and Listed Resources); 21.(Hyperlinks and iGM Website); 22.(iGM Proprietary Rights); 23.(DISCLAIMER OF WARRANTIES); 24.(LIMITATION OF LIABILITY); 25.(Notice); 27.(Violation or Suspected Violation of Terms of Service); 28. (Dispute Resolution); and 29.(Miscellaneous) shall continue to apply to such rights, obligations, and liabilities indefinitely.

#### 20. Dealings with Information Providers and Listed Resources

Your correspondence or business dealings with-or participation in promotions of-information providers, vendors, and/or resources found on or through the Service, including payment and delivery of related goods or services, and any other terms, conditions, warranties, or representations associated with such dealings, are solely between you and such information provider or resource. You acknowledge and

agree that iGM shall not be responsible or liable for any loss or damage of any sort incurred as the result of any such dealings or as the result of the presence of such information provider or resources on the Service.

## 21. Hyperlinks and the iGM Website

The Service provides, and third parties may provide, links to other sites and resources on the Internet. Because iGM has no control over such sites and resources, you acknowledge and agree that iGM is not responsible for the availability of such external sites or resources, and does not endorse and is not responsible or liable for any content, advertising, products, or other materials on or available from such sites or resources. You further acknowledge and agree that iGM shall not be responsible or liable, directly or indirectly, for any damage or loss caused or alleged to be caused by or in connection with use of or reliance on any such content, goods, or services available on or through any such hyperlinked site or resource.

## 22. iGM's Proprietary Rights

You acknowledge and agree that iGM (or iGM's licensors, as applicable) own all legal right, title, and interest in and to the Services, including any intellectual property rights (including but not limited to patents) which subsist in the Services (whether those rights happen to be registered or not, and wherever in the world those rights may exist). You further acknowledge that the Services may contain information which is designated confidential by iGM and that you shall not disclose such information without iGM's prior written consent.

You further acknowledge and agree that the Services and any necessary software used in connection with the Services ("Software") contain proprietary and confidential information that is protected by applicable intellectual property and other laws. You further acknowledge and agree that information presented to you through the Services or sponsors is protected by copyrights, trademarks, service marks, patents, or other proprietary rights and laws. Except as expressly authorized by iGM, you agree not to-and not to permit anyone else to-modify, rent, lease, loan, sell, distribute, or create derivative works of, reverse engineer, decompile, or otherwise attempt to extract the source code of the Services or Software or any part thereof, in whole or in part. Software, if any, that is made available to download from the Services, excluding software that may be made available by end-Users through the Services, is the copyrighted work of iGM and/or its suppliers. Your use of the Software is governed by the terms of the end User license agreement, if any, which accompanies or is included with the Software ("License Agreement"). You may not install or use any Software that is accompanied by or includes a License Agreement unless you first agree to the License Agreement terms.

iGuideMedical.com, Inc., iGM, and other iGM logos and product and service names are trademarks of iGuideMedical.com, Inc. and these marks together with any other iGM trade names, service marks, logos, domain names, and other distinctive brand features are the "iGuideMedical.com, Inc. Marks".

Unless you have agreed otherwise in writing with iGM, other than through the Limited License in Section 9, nothing in the TOS gives you a right to use any iGM Marks and you agree not to display, or use in any manner, iGM Marks.

You agree that you shall not remove, obscure, or alter any proprietary rights notices (including copyright and trade mark notices) that may be affixed to or contained within the Services.

Unless you have been expressly authorized to do so in writing by iGM, you agree that in using the Services, you will not use any trade mark, service mark, trade name, logo of any company or organization in a way that is likely or intended to cause confusion about the owner or authorized User of such marks, names, or logos.

For any Software not accompanied by a License Agreement, iGM grants you a personal, non-transferable, and non-exclusive right and license to use the object code of its Software on a single computer. You may not (and may not allow any third party to) copy, modify, create a derivative work of, reverse engineer, reverse assemble, or otherwise attempt to discover any source code, sell, assign, sublicense, grant a security interest in, or otherwise transfer any right in the Software unless this is expressly permitted or required by law, or unless you have been specifically told that you may do so by iGM, in writing. This license is for the sole purpose of enabling you to use and enjoy the benefit of the Services as provided by iGM, in the manner permitted by the TOS. Unless iGM has given you specific written permission to do so, you may not assign (or grant a sublicense of) your rights to use the Software, grant a security interest in or over your rights to use the Software, or otherwise transfer any part of your rights to use the Software. You agree not to modify the Software in any manner or form, or to use modified versions of the Software, including (without limitation) for the purpose of obtaining unauthorized access to the Service. You agree not to access the Service by any means other than through the interface that is provided by iGM for use in accessing the Service. Any rights not expressly granted herein are reserved.

### 23. Disclaimer of Warranties

YOU EXPRESSLY ACKNOWLEDGE AND AGREE THAT: (1) YOUR USE OF THE SERVICES ARE AT YOUR SOLE RISK. THE SERVICES ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS. iGM EXPRESSLY DISCLAIMS ALL WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT. (2) iGM MAKES NO WARRANTY THAT (a) THE SERVICES WILL MEET YOUR REQUIREMENTS; (b) THE SERVICES WILL BE UNINTERRUPTED, TIMELY, UNFAILINGLY SECURE, OR ERROR-FREE; (c) THE RESULTS THAT MAY BE OBTAINED FROM THE USE OF THE SERVICES WILL BE ACCURATE OR RELIABLE; (d) THE QUALITY OF ANY PRODUCTS, SERVICES, INFORMATION, OR OTHER MATERIAL PURCHASED OR OBTAINED BY YOU THROUGH THE SERVICES WILL MEET YOUR EXPECTATIONS AND (e) ANY ERRORS IN THE SOFTWARE WILL BE CORRECTED. (3) ANY MATERIAL DOWNLOADED OR OTHERWISE

OBTAINED THROUGH THE USE OF THE SERVICES IS DONE AT YOUR OWN DISCRETION AND RISK AND THAT YOU WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO YOUR COMPUTER SYSTEM OR LOSS OF DATA THAT RESULTS FROM THE DOWNLOAD OF ANY SUCH MATERIAL. (4) NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED BY YOU FROM iGM OR THROUGH OR FROM THE SERVICES SHALL CREATE ANY WARRANTY NOT EXPRESSLY STATED IN THE TOS. (5) YOU SHOULD ALWAYS USE CAUTION WHEN GIVING OUT ANY PERSONALLY IDENTIFYING INFORMATION ABOUT YOURSELF OR THOSE FOR WHOM YOU HAVE LEGAL AUTHORITY. iGM DOES NOT CONTROL OR ENDORSE ANY ACTIONS RESULTING FROM YOUR PARTICIPATION IN THE SERVICES AND, THEREFORE, iGM SPECIFICALLY DISCLAIMS ANY LIABILITY WITH REGARD TO ANY ACTIONS RESULTING FROM YOUR PARTICIPATION IN THE SERVICES.

#### 24. Limitation of Liability

WITHIN THE LIMITS ALLOWED BY APPLICABLE LAWS, YOU EXPRESSLY ACKNOWLEDGE AND AGREE THAT iGM SHALL NOT BE LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL, OR EXEMPLARY DAMAGES, INCLUDING BUT NOT LIMITED TO, DAMAGES FOR LOSS OF PROFITS, GOODWILL, USE, DATA OR OTHER INTANGIBLE LOSSES (EVEN IF iGM HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES), RESULTING FROM: (a) THE USE OR THE INABILITY TO USE THE SERVICES; (b) ANY ACTION YOU TAKE BASED ON THE INFORMATION YOU RECEIVE IN, THROUGH OR FROM THE SERVICES, (v) YOUR FAILURE TO KEEP YOUR PASSWORD OR ACCOUNT DETAILS SECURE AND CONFIDENTIAL, (d) THE COST OF PROCUREMENT OF SUBSTITUTE GOODS AND SERVICES RESULTING FROM ANY GOODS, DATA, INFORMATION, OR SERVICES PURCHASED OR OBTAINED OR MESSAGES RECEIVED OR TRANSACTIONS ENTERED INTO THROUGH OR FROM THE SERVICES; (e) UNAUTHORIZED ACCESS TO OR ALTERATION OF YOUR TRANSMISSIONS OR DATA; (f) THE IMPROPER AUTHORIZATION FOR THE SERVICES BY SOMEONE CLAIMING SUCH AUTHORITY; or (g) STATEMENTS OR CONDUCT OF ANY THIRD PARTY ON THE SERVICES.

#### 25. Notice

Notices to you may be made via either email or regular mail. iGM may also provide notices of changes to the TOS or other matters by displaying notices or links to notices to you generally on or through the Services.

Official notices related to this TOS must be sent to us at:

iGM, Inc.

ATTN: Regulatory Officer

PO Box 1062

Rye, NH 03870

Regulatory-Office@iGuideMedical.com

Additionally, iGM accepts service of process at this address. Any notices that you provide without compliance with this section on Notices shall have no legal effect.

## 26. Changes to the Terms of Service

iGM may make changes to the TOS from time to time. When these changes are made, iGM will make a new copy of the TOS available on its Service and any new additional terms will be made available to you from within, or through, the affected Services. The revised TOS will be effective on or after the posted date. If we make a material change to the TOS, we will provide you with notice thirty (30) days prior to the effective date of the change by posting a notice through our Services or sending a message to the email address associated with your account. Unless you notify us within thirty (30) days from the time you receive notice of the new terms that you do not agree to the terms, you will be deemed to have agreed to the new TOS. If any change to the TOS is unacceptable to you, you may stop using our Services and delete your account at any time. You acknowledge and agree that if you use the Services after the date on which the TOS have changed, iGM will treat your use as acceptance of the updated TOS.

## 27. Violation or Suspected Violation of Terms of Service

If you violate the terms of these TOS and/or iGM has a reasonable ground to suspect that you have violated the terms of these TOS, iGM has the right to suspend or terminate your account and refuse any and all current or future use of the Services (or any portion thereof).

## 28. Dispute Resolution (including Arbitration, Class Action Waiver and Time to Initiate Action)

PLEASE READ THIS SECTION CAREFULLY. IT AFFECTS YOUR LEGAL RIGHTS, INCLUDING YOUR RIGHT TO FILE A LAWSUIT IN COURT.

**Initial Dispute Resolution.** We are available by email at [Regulator-Office@iGuideMedical.com](mailto:Regulator-Office@iGuideMedical.com) to address any concerns you may have regarding your use of the Service. Most concerns may be quickly resolved in this manner. You agree to use best efforts to settle any dispute, claim, question, or disagreement directly through consultation and good faith negotiations which shall be a precondition to either party initiating a lawsuit or arbitration.

**Agreement to Binding Arbitration.** If we do not reach an agreed upon solution within a period of thirty (30) days from the time informal dispute resolution is pursued pursuant to Section 28(a) above, then either you or we may initiate binding arbitration. Except for any disputes excluded below in Section 28(d), all claims arising out of or relating to these TOS (including their formation, performance and breach), the parties' relationship with each other and/or your use of the Services shall be finally settled by binding arbitration administered on a confidential basis by an arbitrator chosen by iGM, in accordance with iGM's chosen arbitrator's Arbitration Rules and Procedures, excluding any rules or

procedures governing or permitting class actions. Each party will have the right to use legal counsel in connection with arbitration at its own expense. The parties shall select a single neutral arbitrator in accordance with the iGM's chosen arbitrator's Arbitration Rules and Procedures. The arbitrator, and not any federal, state or local court or agency, shall have exclusive authority to resolve all disputes arising out of or relating to the interpretation, applicability, enforceability or formation of these TOS, including, but not limited to, any claim that all or any part of these TOS is void or voidable. iGM's chosen arbitrator shall be empowered to grant whatever relief would be available in a court under law or in equity. The iGM's chosen arbitrator's award shall be in writing and provide a statement of the essential findings and conclusions, shall be binding on the parties and may be entered as a judgment in any court of competent jurisdiction. The interpretation and enforcement of these TOS shall be subject to the Federal Arbitration Act. The iGM's chosen arbitrator's rules governing the arbitration will be provided within thirty (30) days from the date it is determined that arbitration is required for dispute resolution. If you initiate arbitration, to the extent the filing fee for the arbitration exceeds Two Hundred and Fifty U.S. Dollars (\$250) and the claim is found to be non-frivolous, we will pay the additional cost. If we are required to pay the additional cost of the filing fees, you should submit a request for payment of fees to iGM's chosen arbitrator's along with your form for initiating the arbitration, and we will make arrangements to pay all necessary fees directly to iGM's chosen arbitrator's. We will also be responsible for paying all other arbitration costs arising in connection with the arbitration, other than costs incurred by you for legal counsel, travel and other out-of-pocket costs and expenses not constituting fees or amounts payable to iGM's chosen arbitrator. You will not be required to pay fees and costs incurred by us if you do not prevail in arbitration. We will also pay iGM's chosen arbitrator to reimburse you for any portion of the \$250 filing fee that is more than what you would otherwise have to pay to file suit in a court of law.

You understand that, absent this mandatory provision, you would have the right to sue in court and have a jury trial. You further understand that the right to discovery may be more limited in arbitration than in court.

**Class Action and Class Arbitration Waiver.** You and we each further agree that any arbitration shall be conducted in our respective individual capacities only and not as a class action, and you and we each expressly waive our respective right to file a class action or seek relief on a class basis. If any court or arbitrator determines that the class action waiver set forth in this paragraph is void or unenforceable for any reason or that an arbitration can proceed on a class basis, then the arbitration provision set forth above in Section 28(b) shall be deemed null and void in its entirety and the parties shall be deemed to have not agreed to arbitrate disputes.

**Exceptions.** Notwithstanding the parties' agreement to resolve all disputes through arbitration, either party may seek relief (i) in a small claims court for disputes or claims within the scope of that court's jurisdiction, and (ii) any disputes relating to intellectual property rights, obligations, or any infringement claims.

**30 Day Right to Opt-Out.** You have the right to opt-out and not be bound by the arbitration and class action waiver provisions set forth in Sections 28(b) and 28(c) by sending written notice of your decision

to opt-out by emailing us at [Regulatory-Office@iGuideMedical.com](mailto:Regulatory-Office@iGuideMedical.com). The notice must be sent within thirty (30) days of your first use of the Service, or the effective date of the first set of TOS containing an Arbitration and Class Action and Class Arbitration Waiver section otherwise you shall be bound to arbitrate disputes in accordance with the terms of those sections. If you opt-out of these arbitration provisions, we also will not be bound by them.

**Term for Cause of Action.** You agree that regardless of any statute or law to the contrary, any claim or cause of action arising out of or related to use of the Services or the TOS must be filed within one (1) year after such claim or cause of action arose or be forever barred.

**Exclusive Venue for Litigation.** To the extent that the arbitration provisions set forth in Section 28(b) do not apply or if you have opted out of arbitration, you agree that any litigation shall be filed exclusively in state or federal courts located in Rockingham County, New Hampshire (except for small claims court actions which may be brought in the county where you reside). You and we expressly consent to exclusive jurisdiction in Rockingham County, New Hampshire for any litigation other than small claims court actions. In the event of litigation relating to these TOS or the Service, you agree to waive, to the maximum extent permitted by law, any right to a jury trial, except where a jury trial waiver is not permissible under applicable law.

## 29. Miscellaneous

**Entire Agreement.** The TOS constitute the entire agreement between you and iGM and govern your use of the Services, superseding any prior agreements between you and iGM on this subject. You also may be subject to additional terms and conditions that may apply when you use affiliate services, third-party content, or third-party software

**Waiver.** The failure of iGM to exercise or enforce any right or provision of the TOS shall not constitute a waiver of such right or provision. If any provision of the TOS is found by a court of competent jurisdiction to be invalid, the parties nevertheless agree that the court should endeavor to give effect to the parties' intentions as reflected in the provision, and the other provisions of the TOS remain in full force and effect.

**Admissibility of printed version.** A printed version of this agreement and of any notice given in electronic form shall be admissible in judicial or administrative proceedings based upon or relating to this agreement to the same extent and subject to the same conditions as other business documents and records originally generated and maintained in printed form.

**Section titles.** The section titles in the TOS are for convenience only and have no legal or contractual effect.

**Severability Clause.** If any portion of these TOS is found to be unenforceable, the remaining portion will remain in full force and effect.

**Assignment:** You may not assign or delegate any rights or obligations under the Agreement. Any purported assignment and delegation shall be ineffective. We may freely assign or delegate all rights and obligations under the Agreement, fully or partially without notice to you. We may also substitute, by way of unilateral novation, effective upon notice to you, iGM for any third party that assumes our rights and obligations under this Agreement.