

# Terms of Use

Effective Date: March 1, 2022

## 1. INTRODUCTION

These Terms of Service (these “**Terms**”) are a binding agreement between you (“**you**”), Beam Healthcare S.C. and its associated medical practices (collectively, “**Medical Group**”), and Beam Together MSO, LLC (“**Beam**” and, collectively with the Medical Group, “**we**,” “**us**,” “**our**,”). Beam makes available a telehealth platform hosted by Hint Health Inc. and provides services to you that are described in more detail in these Terms (the “**Beam Services**”). The Medical Group uses the Platform in its performance of online medical consultations (the “**Telehealth Consultations**”) between Medical Group healthcare professionals (individually the “**Provider**” and collectively the “**Providers**”) and their patients pursuant to these Terms (collectively, the “**Telehealth Services**” and, together with the Beam Services, the “**Services**”).

These Terms govern your access to and use of the Services pursuant to the purchase of or subscription to the Services (“**Subscription**”) by you or on your behalf. **Note that Section 24 entitled “Governing Law; Dispute Resolution; Arbitration; Venue” contains a mandatory arbitration provision that requires the use of arbitration on an individual basis and limits the remedies available to you in the event of certain disputes.**

**Please read these Terms carefully. By clicking “I Accept” or by accessing or using our Services, you acknowledge that you have read, understood and agree to be bound by and comply with these Terms. If you do not agree with these Terms, you are not authorized to access or use the Services or any information contained within the Services for any purpose.**

**To the extent that these Terms conflict with a Services Agreement (or any related agreement) (a “Customer Agreement”) between Beam and your employer (or the employer of the Beam member, as applicable) (“Beam Customer”), that Customer Agreement shall control.**

We may revise these Terms from time to time. Any material changes to these Terms will be in effect as of the “Date of Last Revision” referenced in these terms. You should review these Terms from time to time and we will endeavor to provide you with reasonable notice when we make material changes to these Terms. Your continued use of our Services after such changes will constitute your acceptance and agreement to such changes.

## 2. IMPORTANT NOTICES AND DISCLAIMERS

**The Services are not intended for use in the event of an emergency. If you believe you may have a medical emergency, call 9-1-1 or your local emergency medical system immediately. We cannot guarantee response times if you choose to use the Services in the event of a medical emergency.**

The Telehealth Services are provided by licensed Providers that are employed or contracted through the Medical Group. You rely on any content, lab results, technique ideas, or suggestions accessed through the Services at your sole discretion and risk. You should talk to your Provider or other healthcare practitioner for diagnosis and treatment. The Services are not a substitute for the expertise, skill, knowledge, or judgement of healthcare practitioners.

Beam does not recommend or endorse any specific drugs, tests, healthcare providers, products, procedures, opinions, “off-label” drug uses, or any other information that may be provided through our Services.

Beam is not an insurer and the Subscription is **not** an insurance product. The amounts you or a Beam Customer pay for a Subscription are **not** insurance premiums. If you desire any type of health or other insurance, you will need to purchase such insurance separately. The Subscription is **NOT** a health insurance plan, a Medicare Insurance Supplement, a health discount plan, or a prescription discount plan. We do not meet any individual health insurance mandate that may be required by federal law. The fees for the Subscription shall only cover the Services, and shall not cover the cost of any diagnostic or other laboratory tests, medical devices, specialty medical care rendered by any third party, or any other referral made by a Provider to another third party.

### **3. BEAM SERVICES**

Beam’s Services facilitate the exchange of information, content, and services between you and your Provider. The Services may include, for example: (a) administrative support in connection with scheduling, communications, and payment for healthcare services you receive from your Provider; (b) administrative support in connection with coordinating optional fulfillment and payment for diagnostic testing and prescription medications ordered or prescribed by Providers; (c) telecommunications and technology support for using the Services as a means of direct access to Providers provided by affiliated professional entities for communication, consultations, assessments, and treatment by Providers; and (d) providing individuals with resources and information related to health care and wellness.

Beam’s Services enable you to communicate with Providers via Telehealth Consultations regarding non-emergency health-related issues. Beam is not responsible for monitoring such information and communications, and is not a party to the interactions that may occur between you and your Provider. The Medical Group is responsible for all patient care and patient communication.

The Beam Services might not function as intended. You should not and must not rely on the Beam Services as your primary tool for communicating, gathering, storing, updating, sharing, or assessing your health information, including changes to your health status. By using the Beam Services, you assume full responsibility for your use of the Services and agree that we are not responsible or liable for any claim, loss, or damage arising from use of the Beam Services.

Beam has contracted with Hint Health Inc., a telemedicine company, to provide the Beam Services and to enable the delivery of Telehealth Consultations using the Beam platform. To understand how our vendor, Hint Health Inc. processes information provided through the Telehealth Consultations on our behalf, please review Hint Health Inc.’s [Privacy Policy](#).

### **4. YOUR RELATIONSHIP WITH BEAM**

Beam does not provide any medical or healthcare services. All medical and healthcare services are provided by the Medical Group. Rather, Beam provides a technology platform for you to access health care Services by individual Providers employed or contracted with the Medical Group to obtain access to additional information, which you may or may not choose to utilize in planning your health care and wellness. The health and wellness resources made available through our Services are not a substitute for direct in-person health care services in all cases. The decision to focus on diagnosis, treatment recommendations, or both, rests with you and the Provider. You understand that by coordinating and in certain cases consulting with the Medical Group or an affiliated Provider through the Services, you are not entering into a provider-patient relationship with Beam.

## 5. PRIVACY

Please read our Privacy Policy for information about how we collect, use, and disclose your personal information through the Services. We reserve the right to modify our Privacy Policy from time to time.

## 6. AVAILABILITY; LOCATION; APPOINTMENTS

Certain of our Services, including Telehealth Consultations, are currently only available to individuals located in certain states ("**States Where We Operate**"). For the current list of States Where We Operate, please visit [https://beam.healthcare/.](https://beam.healthcare/)

You certify that you are physically located in the state you select in the Services as your current location at the time of any Telehealth Consultation. Your ability to access and use the Services is conditioned on the truthfulness of this certification. The Providers that you access through the Services rely upon this certification in order to interact with you. If your certification is inaccurate, you agree to indemnify us and the Providers with whom you interact from any resulting losses, damages, costs, or expenses.

When scheduling an appointment with a Provider, you may be required to provide a payment method if applicable. If you choose to cancel your scheduled appointment, you must do so at least twenty-four (24) hours in advance of the scheduled appointment time. Should you choose to cancel your scheduled appointment within twenty-four (24) hours of the scheduled appointment time, it will be considered as one (1) full appointment under your Subscription, whether purchased by you or by a Beam Customer, and we may assess a reservation fee of up to the full cost of the canceled appointment, if applicable.

## 7. ELIGIBILITY FOR SERVICES

The Services are not targeted toward or intended for use by anyone under the age of 18. By using the Services, you represent and warrant that you:

- are 18 years of age or older;
- are located in a State Where We Operate (depending on the type of Services).
- have not been previously suspended or removed from the Services, or engaged in any activity that could result in suspension or removal from the Services; and
- have full power and authority to enter into these Terms and in so doing will not violate any other agreement to which you are a party.

If you are accessing or using our Services on behalf of another person or entity, including if you are accessing or using our Services on behalf of a minor under the age of 18 of whom you are the parent or legal guardian, you represent that you are authorized to accept these Terms on that person or entity's behalf and that the person or entity agrees to be responsible to us if you or the other person or entity violates these Terms.

If you are not affiliated with a Beam Customer, you acknowledge and agree that Beam does not have the obligation to verify your Health Savings Account ("**HSA**") status and/or eligibility. If you are eligible for an HSA and/or do contribute to an HSA, check with your benefits administrator to ensure payment for the medical care under a personal health plan will not materially affect your eligibility under your HSA benefits, including the ability to make future contributions to your HSA.

## 8. REQUIREMENTS FOR USE; DEVICES OR OTHER EQUIPMENT

You must have compatible computing and/or mobile devices, access to the Internet, and certain necessary software in order to use the Services. Fees and charges may apply to your use of the mobile services and to the Internet.

You may access and use the Beam Services, including the telehealth technology platform only in connection with the Services provided to you by Beam. If Beam arranges for you to receive devices for your use or other equipment, you will accept receipt of such devices or equipment. If the devices and equipment are shipped directly from a Third-Party Supplier, you agree to notify Beam within one business day of receipt of any overages or shortages of materials delivered to you. Upon discontinuation of treatment by Beam, you shall return to Beam of any such device. You shall keep the devices clean and in good repair. You shall report to Beam any damage or destruction of a device or any defective device within one (1) business day of discovering same.

## 9. REGISTRATION AND USER ACCOUNTS

Although certain parts of the Services are accessible by any individual, you are obligated to register with Beam and create an account (“**Account**”) in order to access the Telehealth Services. The Telehealth Services are available only to users who have registered with Beam and to other persons affiliated with Beam who have been granted Accounts with usernames and passwords (“**Secure Users**”). If you are a Secure User, you agree to provide information that is accurate, complete and correct, and to accurately maintain and update any information about yourself that you have provided to Beam. If you do not maintain such information accurately, or if Beam has reasonable grounds to suspect as much, Beam has the right to suspend or terminate your Account and your use of the Services. You also agree to immediately notify Beam of any unauthorized use of your username, password or any other breach of security that you become aware of involving or relating to the Services by emailing Beam at [client@beam.healthcare](mailto:client@beam.healthcare). Beam may take any and all actions it deems necessary or reasonable to maintain the security of the Services and your Secure User Account.

You agree to keep confidential your username and password and to exit from your Secure User Account at the end of each session. You are responsible for all activities that occur under and through your Account and for maintaining the confidentiality of your password. You are responsible for changing your password promptly if you think it has been compromised. You may not transfer or share your password with anyone, or create more than one Account. You may not use anyone else’s Account at any time. Beam explicitly disclaims liability for any and all losses and damages arising from your failure to comply with this section. You acknowledge and agree that: (1) all or any part of the Services may not be accessible at any time, for any period, or for any reason; and (2) Beam will not be liable if for any reason all or any part of the Services are unavailable at any time or for any period.

## 10. ELECTRONIC COMMUNICATIONS

By creating an Account, you consent to receive electronic communications from Beam, the Medical Group and Providers related to the Services (e.g., via email, text message, or by posting notices to the Services). These communications may include notices about your Account, information from your Providers, payment authorizations, password changes, and other transactional or administrative information. You agree that any notices, agreements, disclosures or other communications sent through the Services electronically will satisfy any legal communication requirements, including, but not limited to, that such communications be in writing. You should maintain copies of electronic communications from us by printing a paper copy or saving an electronic copy. We may also send you promotional communications via email, including, but not limited to, newsletters, special offers, surveys and other news and information we think will be of interest to you. It is your responsibility to monitor these communications. You acknowledge and agree that you will not hold us or any Beam affiliate liable for any loss, injury, or claim of any kind resulting from your failure to read these communications or for your failure to comply with any treatment recommendations contained in these communications. You may opt

out of receiving these promotional emails at any time by following the unsubscribe instructions provided therein.

If you use the Services on a mobile device, or if you send or receive electronic communications to or from us on a mobile device, your wireless carrier may impose data and/or other charges, and you understand and agree that you will be solely responsible for any and all such charges from your wireless carrier.

## 11. PHARMACY SERVICES

Services available under your Subscription may include the fulfillment of prescriptions for a limited set of medications prescribed by a Provider ("**Beam Formulary**"). If a Provider issues a prescription for a medication that is included in the Beam Formulary and within the terms of your Subscription, the Provider will submit the request for fulfillment to our contracted fulfillment pharmacy ("Pharmacy"). You acknowledge and give us consent to send and disclose to the Pharmacy information provided by you, such as your health care records, and other applicable health care information and personal information (such as your name, location and demographic information) so that you may receive pharmacy services. You understand and agree that the Pharmacy may need to contact you about your prescription. Beam is not responsible for the actions, omissions, or errors, of the Pharmacy in the payment, delivery or fulfillment related to the prescription orders. Beam cannot accept returns of any prescription products. However, if you believe the Pharmacy has made an error in the filling of your prescription, please contact us at [client@beam.healthcare](mailto:client@beam.healthcare). **[If the Provider orders a medication that is not included in the Beam Formulary or would not be within the terms of your Subscription (for example, if you have met the cap on prescriptions under the terms of the Subscription), the Provider will submit the prescription to your preferred pharmacy for fulfillment.]**

## 12. SPECIAL CONSENT TO TELEHEALTH SERVICES

We will only provide the Services to you upon receipt of your completed Consent to Telehealth available at [www.beam.healthcare/patient-consent](http://www.beam.healthcare/patient-consent), which provides a description of the risks and benefits of telemedicine. The Consent to Telehealth is hereby incorporated into these Terms of Use by reference and constitutes a part of these Terms of Use.

## 13. PAYMENT; CAP ON MONTHLY VISITS; CAPS ON PRESCRIPTIONS

You acknowledge and agree that the number of Telehealth Consultations for which you are eligible in a one (1) year period and the number of prescriptions that may be filled as part of a Subscription you purchase or is made available to you through a Beam Customer may be limited according to the terms of your Subscription or the applicable Customer Agreement. Additional visits and other services may be accessed by paying an additional fee as listed online at the time of service.

If you purchase a Subscription to access the Telehealth Services (as opposed to a Beam Customer providing you with access to the Services), you agree to pay all fees due for services requested. By entering your payment information and submitting your request, you authorize us, our affiliates, or our third-party payment processors to charge the amount due.

Our payment processing services are provided through Stripe, Inc. and/or its affiliates. You understand that Beam uses the Stripe™ application programming interface (or API) to process payments through the Site. Payment processing services are provided by Stripe and are subject to the Stripe Connected Account Agreement (as provided on the Stripe website at <https://stripe.com/us/connect-account/legal> or a successor website) and Stripe Terms and Services (as provided on the Stripe website at <https://stripe.com/us/ssa> or a successor website). By agreeing to this Agreement or otherwise continuing to utilize the Service, you agree to be bound by the above referenced agreements with Stripe, and agree that such agreements may be modified by Stripe from time to time. As a condition of our making payment processing services available to you through the Stripe API, you agree to provide us with accurate and

complete information about you and your payment information, and you authorize us to disclose such information to Stripe for the purpose of enabling payment processing on your behalf and, likewise, receive from Stripe transaction information related to your use of the payment processing services provided by Stripe as needed in order to process payments by you through the Service.

You understand and agree not to hold us liable for any adverse effect that actions (whether intentional or unintentional) may cause to any other accounts you hold. You agree to not process stolen cards or unauthorized cards through your Stripe and/or your Account. You can review Stripe's privacy policy at <https://stripe.com/privacy>. If you believe any of the fees you have been charged are incorrect, you must immediately contact us in writing regarding the amount in question to be eligible to receive a refund. You irrevocably waive your right to challenge the accuracy of any charge, or otherwise receive a refund, if you fail to notify us in writing within fifteen (15) calendar days after the charge, that you believe the charge is inaccurate (setting forth an explanation of why).

When you register for a monthly Subscription, you expressly acknowledge and agree that (a) we (or our third-party payment processor) are authorized to charge you on a quarterly basis for your Subscription (in addition to any applicable taxes and other charges) for as long as your Subscription continues, and (b) your Subscription is continuous until you cancel it or we suspend or stop providing access to the services in accordance with these terms. You may cancel your Subscription with a 90-day notice by managing your Subscription in your account settings. Early cancellation fee may apply along with included annual benefits of labs, pharmacy, and other services that were rendered.

Your payments to Beam include fees charged by the Medical Group for the provision of medical services and Pharmacy for the provision of pharmacy services, which Beam may collect on their behalf. In the event that your credit card expires or Beam, our affiliates, or our third-party payment processors are unable to process your payment, you may receive notice for you to provide an alternative payment method. Beam and/or the health care organization(s) and/or Provider(s) have no obligation to provide any Telehealth Services unless and until full payment has been received and/or verified. We may suspend or terminate your use of our Services in accordance with Section 17 entitled "Termination" in the event of any payment delinquency.

#### **14. INTELLECTUAL PROPERTY; LIMITED LICENSE**

As between Beam and you, Beam is the sole and exclusive owner of all right, title and interest in and to the Services and its content, features and functionality (including, without limitation, all information, software, text, displays, images, video, audio, design, selection, arrangement and look and feel), other content ("**Beam Content**"), and all intellectual property rights therein, and any suggestions, ideas or other feedback provided by you. You are not permitted to reproduce, publish, distribute, modify, create derivative works of, publicly display, publicly perform, republish, download, store, transmit, sell or participate in any sale of, or exploit in any way, in whole or in part, any of the material on our Services except as generally and ordinarily permitted through the Services according to these Terms of Use. Any copy, modification, revision, enhancement, adaptation, translation, or derivative work of the Services or Beam Content shall be owned solely and exclusively by Beam or its licensors, including all intellectual property rights therein. You may not access or use for any commercial purposes any part of the Services or Beam Content.

Certain names, logos, and other materials displayed in and through the Services may constitute trademarks, trade names, service marks or logos ("**Marks**") of Beam, Medical Group or their respective affiliates. You are not authorized to use any such Marks without our express written permission. Ownership of all such Marks and the goodwill associated therewith remains with us or our affiliates.

Subject to your compliance with these Terms, we hereby grant to you a personal, limited, revocable, non-exclusive, and nontransferable right to view, download, access, and use the Services in the States Where We Operate and to use the Services solely for your personal and non-commercial use and only as

permitted under these Terms. No other right, title, or interest in or to the Services is transferred to you, and all rights not expressly granted are reserved by us or our licensors. We reserve the right, in our sole discretion, to deny or suspend use of the Services to anyone for any reason.

## **15. USER-SUBMITTED MATERIAL AND INFORMATION**

Our Services may allow you to upload, store and share content, including messages, text and other materials (collectively, "**User Content**").

Subject to our Privacy Policy, you hereby grant Beam a nonexclusive, royalty-free, worldwide, fully-paid, and sub-licensable license to use, reproduce, modify, adapt, publish, translate, create derivative works from, distribute, and display your User Content in all media formats and channels now known or later developed without compensation to you.

If you supply or transmit any User Content via the Services, you represent and warrant to us that you have the legal right necessary to grant us the license described above, and that such material will not violate any law or the rights of any person or entity (including without limitation copyright, trademark, patent, trade secret, or other intellectual property right, or moral right or right of publicity).

Any User Content uploaded or sent privately to a Provider is the sole responsibility of the person that submitted it. Although Beam reserves the right to review or remove all User Content on the Services, we do not necessarily review all of it. As such, we do not take responsibility for any User Content provided through the Services.

## **16. ACCESS RIGHTS AND PROHIBITED USE**

You agree to use the Services in accordance with all applicable local, state, national and foreign laws, treaties, and regulations. You will not violate any contract, intellectual property or other third-party right or commit a tort, and you are solely responsible for your conduct while accessing or using our Services. In addition, without limitation, you will not, directly or indirectly, do any of the following while using or accessing the Services:

- impersonate any person or entity or otherwise misrepresent your affiliation with a person or entity;
- use the Services to violate any local, state, national or international law;
- reverse engineer, disassemble, decompile, or translate any software or other components of the Services;
- distribute, input, upload, transmit, or otherwise run or propagate any virus, application, Trojan horse, or any other harmful computer code that could damage or alter a computer, portable device, computer network, communication network, data, or our Services, or any other system, device, or property;
- access or use the Services in any manner or for any purpose that infringes, misappropriates, or otherwise violates any intellectual property right or other right of any third party;
- license, sublicense, sell, resell, transfer, assign, distribute or otherwise commercially exploit or make available to any third party the Services or related materials in any way;
- use or access the Services to create or develop competing products or services or for any other purpose that is to Beam's detriment or commercial disadvantage;

- take any action or use the Services in any manner which could damage, destroy, disrupt, disable, impair, overburden, interfere with, or otherwise impede or harm in any manner our Services or any content, in whole or in part;
- disrupt, interfere with, violate the security of, or attempt to gain unauthorized access to our Services or any computer network;
- bypass, breach, avoid, remove, deactivate, impair, descramble, or otherwise circumvent any security device, protection, or technological measure implemented by Beam or any of our service providers to protect our Services;
- remove, delete, alter, or obscure any trademarks, specifications, warranties, or disclaimers, or any copyright, trademark, patent, or other intellectual property or proprietary rights notices from our Services or any content made available to you on or through our Services;
- use any manual process or automated device to monitor or copy any content made available on or through our Services for any unauthorized purpose except as permitted by this section;
- copy, duplicate, download, store in a retrieval system, publish, transmit or otherwise reproduce, transfer, distribute, store, disseminate, aggregate, use as a component of or as the basis for a database or otherwise use in any form or by any means any data, text, reports, or other materials related to Beam or third-party content from the Services;
- otherwise use the Services in any manner that exceeds the scope of use granted above; or
- encourage or enable any other individual to do any of the foregoing.

## **17. TERMINATION**

These Terms will remain in full force and effect as long as you continue to access or use the Services. Your permission to use the Services automatically terminates if you violate these Terms.

We may change or discontinue offering our Services, and we may suspend or terminate your right to use our Services at any time, in the event that you breach these Terms, for any other reason, or for no reason at all, in our sole discretion, and without prior notice to you. The following provisions survive the expiration or termination of these Terms of Use for any reason whatsoever: Disclaimer of Warranties; Limitation of Liability; Indemnification; Governing Law, Dispute Resolution, Arbitration, Venue, Severability of Provisions; No Waiver; and Assignment.

Subject to applicable law, we reserve the right to maintain, delete or destroy all communications and materials posted or uploaded to the Services pursuant to our internal record retention and/or content destruction policies. After such termination, we will have no further obligation to provide the Services, except to the extent that Medical Group is obligated to provide you access to your health records or is required to provide you with continuing care under applicable legal, ethical and professional obligations to you. You agree that if your use of the Services is terminated pursuant to these Terms of Use, you will not attempt to use the Services in any way, and further agree that if you violate this restriction after such termination, you will indemnify and hold us harmless from any and all liability that we may incur therefore.

## **18. MODIFICATION OF SERVICE**

We reserve the right at any time and for any reason to modify, or temporarily or permanently discontinue, the Services or any portion thereof, with or without notice. You agree that we shall not be liable to you or to any third party for any modification, suspension, or discontinuance of the Services.

## **19. LINKS TO THIRD-PARTIES**

The Beam Services may include links to third-party websites, resources and advertisements (collectively, "**Third Party Sites**"). We are not responsible or liable for the availability or accuracy of, and Beam does not endorse, sponsor, or recommend any Third Party Sites or the content, products, or services on or available from such Third Party Sites. Your use of Third Party Sites is at your own risk, and Beam and its affiliates will not be liable for any of losses arising out of or relating to Third Party Sites.

## **20. DISCLAIMER OF WARRANTIES**

YOU EXPRESSLY AGREE THAT USE OF THE SERVICES IS AT YOUR SOLE RISK. YOU ACKNOWLEDGE AND AGREE THAT THE SERVICES ARE PROVIDED THROUGH THE SERVICES ON AN "AS IS" AND "AS AVAILABLE" BASIS. BEAM, MEDICAL GROUP AND THEIR RESPECTIVE AFFILIATES, OFFICERS, DIRECTORS, MANAGERS, PARTNERS, MEMBERS, EMPLOYEES, AND AGENTS (COLLECTIVELY "**RELATED PERSONS**") MAKE NO REPRESENTATIONS OR WARRANTIES AND EXPRESSLY DISCLAIM ANY AND ALL WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, WITH RESPECT TO THE SERVICES INCLUDING, BUT NOT LIMITED TO, ANY REPRESENTATIONS OR WARRANTIES WITH RESPECT TO MERCHANTABILITY, FITNESS FOR A PARTICULAR USE OR PURPOSE, NONINFRINGEMENT, TITLE, AVAILABILITY, SECURITY, OPERABILITY, CONDITION, QUIET ENJOYMENT, VALUE, ACCURACY OF DATA, FREEDOM FROM VIRUSES OR MALWARE, COMPLETENESS, TIMELINESS, FUNCTIONALITY, RELIABILITY, SEQUENCING OR SPEED OF DELIVERY OR SYSTEM INTEGRATION. WE MAKE NO WARRANTIES OR REPRESENTATIONS THAT YOUR USE OF THE SERVICES WILL NOT INFRINGE THE RIGHTS OF THIRD PARTIES.

TO THE FULLEST EXTENT OF APPLICABLE LAW, NEITHER BEAM NOR THE OTHER RELATED PERSONS WILL BE LIABLE FOR ANY LOSS OR DAMAGE CAUSED BY YOUR RELIANCE ON INFORMATION OBTAINED THROUGH THE SERVICES. IT IS YOUR RESPONSIBILITY TO EVALUATE THE ACCURACY, COMPLETENESS, TIMELINESS, RELIABILITY OR USEFULNESS OF THE SERVICES. FURTHERMORE, BEAM DOES NOT GUARANTEE THAT THE SERVICES WILL BE UNINTERRUPTED, OR FREE FROM ERROR, DEFECT, LOSS, DELAY IN OPERATION, CORRUPTION, CYBER ATTACK, VIRUSES, INTERFERENCE, HACKING, MALWARE, OR OTHER SECURITY INTRUSION, AND BEAM DISCLAIMS ANY LIABILITY RELATING THERETO.

YOU UNDERSTAND AND AGREE THAT ANY CONTENT, MATERIAL AND/OR INFORMATION OBTAINED THROUGH THE USE OF THE SERVICES ARE USED AT YOUR SOLE RISK AND THAT YOU WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO YOUR COMPUTER OR MOBILE PHONE OR LOSS OF DATA THAT RESULTS FROM THE DOWNLOAD OF SUCH CONTENT, MATERIAL AND/OR INFORMATION.

## **21. LIMITATION OF LIABILITY**

YOU UNDERSTAND THAT TO THE FULLEST EXTENT PERMITTED UNDER APPLICABLE LAW, IN NO EVENT WILL BEAM, THE OTHER RELATED PERSONS OR THEIR RESPECTIVE LICENSORS ("**BEAM PARTIES**") BE LIABLE TO YOU OR TO ANY PARTY FOR ANY CLAIMS, LIABILITIES, LOSSES, COSTS OR DAMAGES UNDER ANY LEGAL OR EQUITABLE THEORY, WHETHER IN TORT (INCLUDING NEGLIGENCE AND STRICT LIABILITY), CONTRACT, WARRANTY, STATUTE OR OTHERWISE, INCLUDING, BUT NOT LIMITED TO, ANY INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL, PUNITIVE OR EXEMPLARY DAMAGES, INCLUDING BUT NOT LIMITED TO, DAMAGES FOR LOSS OF REVENUES, PROFITS, GOODWILL, USE OR DATA, SERVICE

INTERRUPTION, COMPUTER OR MOBILE PHONE DAMAGE, OR SYSTEM FAILURE, OR THE COST OF SUBSTITUTE PRODUCTS OR SERVICES, OR FOR ANY DAMAGES FOR PERSONAL OR BODILY INJURY OR EMOTIONAL DISTRESS, INCLUDING DEATH, ARISING OUT OF OR IN CONNECTION WITH ANY ACCESS, USE OF (OR INABILITY TO USE) ANY SERVICES, OR OTHER INTANGIBLE LOSSES ARISING OUT OF OR RELATED TO YOUR USE OF THE SERVICES. THIS IS TRUE EVEN IF BEAM OR RELATED PERSONS HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR LOSSES.

To the fullest extent permitted under applicable law and to the extent any aspects of this section are not enforceable, in no event shall the maximum aggregate liability of the Beam Parties (jointly) arising out of or in any way related to access or use of the Services or Beam Content, exceed \$100.00 USD. The foregoing limitations shall apply even in the event your remedies hereunder fail of their essential purpose, and the foregoing shall constitute the Beam Parties' sole liability and obligation in respect hereof, regardless of the form of action, whether based in contract, tort (including, but not limited to, simple negligence, whether active, passive or imputed), or any other legal or equitable theory.

Beam is not liable to any person or user for any harm caused by the negligence, misconduct or any other acts or omissions of a Provider providing health care services.

To the extent that we may not, as a matter of applicable law, disclaim any implied warranty or limit liabilities, the scope and duration of such warranty and the extent of our liability will be the minimum permitted under such applicable law.

## 22. INDEMNIFICATION

You agree to indemnify, defend, and hold harmless Beam, its affiliates (including without limitation all affiliated professional entities), subsidiaries, and their directors, officers, employees, contractors, licensors, suppliers, representatives, proprietors, partners, shareholders, servants, principals, agents, predecessors, successors, assigns, accountants, and attorneys harmless from and against any and all third-party suits, actions, claims, proceedings, damages, settlements, judgments, injuries, liabilities, obligations, losses, risks, costs, and expenses (including, without limitation, reasonable attorneys' fees, litigation expenses, and accounting fees), relating to or arising from, or alleged to arise from, your use of materials or features available through our Services in an unauthorized manner, fraud, violation of law, or willful misconduct, or any breach by you of these Terms.

## 23. RELEASE

To the fullest extent permitted by applicable law, you release Beam and the other Beam Parties from responsibility, liability, claims, demands, and/or damages (actual and consequential) of every kind and nature, known and unknown (including, but not limited to, claims of negligence), arising out of or related to disputes between users and the acts or omissions of third parties.

If you are a California resident, you hereby waive any rights you may have under California Civil Code § 1542, which provides 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,**" as well as any other statute or common law principles that would otherwise limit the coverage of this release to include only those claims which you may know or suspect to exist in your favor at the time of agreeing to this release.

## 24. GOVERNING LAW; DISPUTE RESOLUTION; ARBITRATION; VENUE

PLEASE READ THIS SECTION CAREFULLY BECAUSE IT REQUIRES YOU AND BEAM TO RESOLVE ALL DISPUTES BETWEEN US THROUGH BINDING INDIVIDUAL ARBITRATION AND LIMITS THE MANNER IN WHICH YOU CAN SEEK RELIEF FROM BEAM.

These Terms and your use of the Services shall be governed by the laws of the State of Delaware, without giving effect to the principles of conflict of laws.

**Binding Arbitration.** Except for any disputes, claims, suits, actions, causes of action, demands or proceedings (collectively, “**Disputes**”) arising out of or related to an individual action in small claims court or seeks injunctive or other equitable relief for the alleged unlawful use of intellectual property, including, without limitation, copyrights, trademarks, trade names, logos, trade secrets or patents, you and Beam agree (a) to waive your and Beam’s respective rights to have any and all Disputes arising from or related to these Terms, or the Services, resolved in a court, and (b) to waive your and Beam’s respective rights to a jury trial. Instead, you and Beam agree to arbitrate Disputes through binding arbitration (which is the referral of a Dispute to one or more persons charged with reviewing the Dispute and making a final and binding determination to resolve it instead of having the Dispute decided by a judge or jury in court).

**No Class Arbitrations, Class Actions or Representative Actions.** You and Beam agree that any Dispute arising out of or related to these Terms or the Services is personal to you and Beam, and that such Dispute will be resolved solely through individual arbitration and will not be brought as a class arbitration, class action or any other type of representative proceeding. You and Beam agree that there will be no class arbitration or arbitration in which an individual attempts to resolve a Dispute as a representative of another individual or group of individuals. Further, you and Beam agree that a Dispute cannot be brought as a class or other type of representative action, whether within or outside of arbitration, or on behalf of any other individual or group of individuals. The arbitrator does not have the power to vary these class action waiver provisions.

**Federal Arbitration Act.** You and Beam agree that these Terms affect interstate commerce and that the enforceability of this Section shall be both substantively and procedurally governed by and construed and enforced in accordance with the Federal Arbitration Act, 9 U.S.C. § 1 et seq. (the “**FAA**”), to the maximum extent permitted by applicable law.

**Process.** You and Beam agree that (a) any arbitration will occur in the County of New Castle, Delaware or telephonically; (b) arbitration will be conducted confidentially by a single arbitrator in accordance with the American Arbitration Association’s (“**AAA**”) Consumer Arbitration Rules that are in effect at the time the arbitration is initiated, as modified by the terms set forth herein (“**AAA Rules**”), which are hereby incorporated by reference, and (c) that the seat of the arbitration shall be the County of New Castle, Delaware and that state or federal courts of Delaware and the United States have exclusive jurisdiction over any litigation in aid of arbitration and the enforcement of any arbitration awards.

**Authority of Arbitrator.** As limited by the FAA, these Terms and the applicable AAA rules, the arbitrator will have (a) the exclusive authority and jurisdiction to make all procedural and substantive decisions regarding a Dispute, including the determination of whether a Dispute is arbitrable, and (b) the authority to grant any remedy that would otherwise be available in court; provided, however, that the arbitrator does not have the authority to conduct a class arbitration or a representative action, which is prohibited by these Terms. The arbitrator may only conduct an individual arbitration and may not consolidate more than one individual’s claims, preside over any type of class or representative proceeding or preside over any proceeding involving more than one individual. Notwithstanding any other provision of this Section, any and all issues relating to the scope, interpretation and enforceability of the class action waiver provisions contained in this Section, are to be decided only by a court of competent jurisdiction, and not by the arbitrator.

## 25. SEVERABILITY

All parts of these Terms apply to the maximum extent permitted by law. Beam and you both agree that if we cannot enforce a part of this contract as written, then that part will be replaced with terms that most closely match the intent of the part we cannot enforce, to the extent permitted by law. The invalidity of part of these Terms of Use will not affect the validity and enforceability of the remaining provisions. The section headings are for convenience only and do not have any force or effect.

## **26. NO WAIVER**

No waiver by Beam of any term or condition set forth in these Terms shall be deemed a further or continuing waiver of such term or condition or a waiver of any other term or condition, and any failure by Beam to assert a right or provision under these Terms shall not constitute a waiver of such right or provision.

## **27. NO AGENCY RELATIONSHIP**

Nothing in these Terms or in the Services create any partnership, joint venture, employment, or other agency relationship between us and you. You may not enter into any contract on our behalf or bind us in any way.

## **28. ASSIGNMENT**

You may not assign any of your rights under these Terms, and any such attempt will be null and void. Beam and their affiliates may, in their individual discretion, transfer, without further consent or notification, all contractual rights and obligations pursuant to these Terms if some or all of the business of Beam is transferred to another entity by way of merger, sale of its assets or otherwise.

## **29. REMEDIES**

You agree that any violation, or threatened violation, by you of these Terms will cause us irreparable and unquantifiable harm. You also agree that monetary damages would be inadequate for such harm and consent to our obtaining any injunctive or equitable relief that we deem necessary or appropriate. These remedies are in addition to any other remedies we may have at law or in equity.

## **30. DIGITAL MILLENNIUM COPYRIGHT ACT**

Beam reserves the right to remove any content or any other material or information available on or through our Services, at any time, for any reason. Beam otherwise complies with the provisions of the Digital Millennium Copyright Act ("**DMCA**") applicable to Internet service providers (17 U.S.C. § 512, as amended), and responds to clear notices of alleged copyright infringement. This Section describes the procedure that should be followed to file a notification of alleged copyright infringement with Beam.

**Notification of Claimed Copyright Infringement.** If you have objections to copyrighted content or material made available on or through our Services, you may submit a notification to our Designated Agent at the following address:

client@beam.healthcare

Any notification to Beam under 17 U.S.C. § 512(c) alleging copyright infringement must include the following information:

- An electronic or physical signature of the person authorized to act on behalf of the owner of the exclusive right being infringed;

- An identification of the copyrighted work or other intellectual property that you claim has been infringed or, if multiple copyrighted works are covered by a single notification, a representative list of such works;
- An identification of the content or material that you claim is infringing and where it is located on our Services;
- Information sufficient for Beam to contact you, such as your address, telephone number, and/or email address;
- A statement by you that you have a good-faith belief that the use of the content or material of which you are complaining is not authorized by the copyright owner, its agent, or the law; and
- A signed statement by you that the above information in your notice is accurate and that, under penalty of perjury, you are the copyright owner or authorized to act on the copyright owner's behalf.