



Terms and Conditions of Use MatrixCare Engage™ Platform

Effective date: April 1, 2023

These terms and conditions of use (“Agreement” or “Terms”) are entered into by and between you (“you” or “Customer”) and MatrixCare, Inc. (“MC,” “we” or “us”), and you, who uses, accesses and licenses MC software in accordance with these Terms and/or separate Master License and Services Agreement (“MLSA”), if applicable, and any person authorized by you to access and use the MatrixCare Engage Platform. If you do not agree to these Terms, you may not use or otherwise access the MatrixCare Engage Platform.

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1 Acceptance of the Terms

Read these Terms carefully before using the MatrixCare Engage Platform. Your use of the MatrixCare Engage Platform constitutes acknowledgment that you have the legal authority to be bound by these Terms. By clicking the “I Agree” button, you acknowledge and agree that you have read and are hereby bound by these Terms and agree to comply with all applicable laws, regulations and rules with regard to use of and access to the MatrixCare Engage Platform.

2 Definitions

Capitalized terms not otherwise defined in the body of these Terms, shall have the following meanings:

MatrixCare Engage Platform means the cloud-based and patient-based Electronic Medical Record (EMR) aggregation and care coordination platform for use with MC and third-party EMR solutions, including any content, functionality and services offered on or through the MatrixCare Engage Platform.

De-identified Data means Personal Information (or any portion thereof) that: (i) was the subject of reasonable efforts to de-identify, aggregate and/or anonymize such data so no individual, entity or particular record can be identified; or (ii) is Protected Health Information (PHI) that has been de-identified in compliance with the de-identification standards set forth in 45 C.F.R. § 164.514(b).

HIPAA refers to the Health Insurance Portability and Accountability Act of 1996, as amended by the Health Information Technology for Economic and Clinical Health Act of 2009 (HITECH) and their implementing regulations.

Patient Data means all information introduced into the MatrixCare Engage Platform by you, your patient or resident, a caregiver or any third party authorized by you to access the MatrixCare Engage Platform on your behalf, including Personal Information and any other information submitted to the MatrixCare Engage Platform to allow or facilitate the observation, documentation or assessment of the health or health risk of a patient or resident, but not including De-identified Data.

Personal Information means any information that, individually or in combination, does or can reasonably be expected to identify a specific individual or by or from which a specific individual may be identified or contacted, including any data concerning or relating to the care and treatment of a patient. Personal Information includes PHI but does not include De-identified Data.

Protected Health Information (PHI) has the meaning set forth under HIPAA at 45 C.F.R. §160.103.

3 Portal access

3.1 Access to the MatrixCare Engage Platform

This Agreement permits you to access the MatrixCare Engage Platform and: (i) if you are a patient, caregiver or a person holding power-of-attorney on behalf of a patient (the Patient), to view a Patient's Patient Data and other Personal Information, and to manage any Patient Data the Patient or its caregiver uploads to the MatrixCare Engage Platform and manage access to the Patient's Patient Data by certain third parties; (ii) if you are a family member or a trusted contact of a Patient (Family Member) expressly authorized by the Patient, to access the MatrixCare Engage Platform to view the Patient's Patient Data and communicate through the MatrixCare Engage Platform with the Patient, their Healthcare Providers and their other authorized Family Members; or (iii) if you are a doctor, nurse practitioner, physician assistant or other healthcare provider (Healthcare Provider) who has provided or is providing healthcare services to the Patient expressly authorized by the Patient, to view the Patient's Patient Data through the MatrixCare Engage Platform to provide care and treatment to the Patient, to conduct payment and healthcare operations activities (as defined under HIPAA) and to add Patient Data to such Patient's record in the MatrixCare Engage Platform.

If you are a Healthcare Provider, you: (i) are required to have all the professional licenses or other certifications required under applicable state or federal laws or regulations to provide medical care, treatment, and other services, including remote consultations, in each jurisdiction where you provide such medical care, treatment, and other services, and; (ii) will not provide medical care, treatment, or other services to any person until you have established an appropriate doctor-patient or other provider-patient relationship as required under applicable state, federal, or other laws or regulations. If you act in the role of more than one of the user types discussed above, you must comply with the terms that apply to each particular type of user when you are acting in that capacity. To be clear, if you access the MatrixCare Engage Platform as a person holding power-of-attorney on behalf of a Patient, you represent and warrant that you have full legal authority to act on the Patient's behalf with respect to the Patient's medical affairs and are considered a personal representative of the patient pursuant to HIPAA.

3.2 Account

To access the MatrixCare Engage Platform, you must create an account or have an account created for you. You may only have one account per user. If you receive an administrator account, it is your sole responsibility to verify consents and provide access to your Patient, Family Members, Healthcare Providers or any third party needed to assist with care of the Patient. You may be required to provide information about yourself to register for and/or use the MatrixCare Engage Platform. You agree that the information you provide shall be accurate. You may also be asked to choose a username and password. You are entirely responsible for maintaining the security of your username and password and agree not to disclose them to any third party.

3.3 Suspension

We reserve the right to temporarily suspend your account and your access to the MatrixCare Engage Platform if we reasonably believe your account has, or may have been, obtained in an illegal or unauthorized manner or is being used, or may be used, by an unauthorized person(s). Access may also be suspended or terminated for failure to pay subscription fees or as set forth under the "Termination" section of these Terms.

3.4 License

Subject to these Terms, MC grants to you, for the term of this Agreement, a limited, revocable, non-exclusive, and non-transferrable license to access and use the MatrixCare Engage Platform as provided in this paragraph. If you are a Patient, you shall have all the rights made available to Patients on the MatrixCare Engage Platform from time to time, including those rights described in Section 3.1. If you are a Family Member or Healthcare Provider, you shall have the rights available to the particular type of user on the MatrixCare Engage Platform from time to time, including those rights described in Section 3.1 for the applicable type of user, solely with respect to each Patient who has authorized you to view, or otherwise manage the Patient's Patient Data through the MatrixCare Engage Platform, and solely to the extent that the Patient has authorized such use. No other right, title, or interest in or to the MatrixCare Engage Platform is transferred to you, and all rights not expressly granted are reserved by MC or its licensors.

You are not permitted to reproduce, publish, transmit, distribute, display, modify, create derivative works from, sell or participate in any sale of, or exploit in any way, in whole or in part, any of the content for commercial use.

3.5 Updates and upgrades

Updates and upgrades of the MatrixCare Engage Platform may be issued by MC from time to time. Unless otherwise specified by MC, these updates and upgrades are automatically included in the MatrixCare Engage Platform rights available to you and will not be subject to acceptance or rejection by you. Such updates and upgrades and maintenance may result in temporary service interruption or downtime of the MatrixCare Engage Platform. If we anticipate a significant or extended interruption, we will attempt to provide prior notice but cannot guarantee that notice will be provided.

3.6 Hardware and software

You will be responsible for obtaining and maintaining all of the equipment, internet access, hardware and software necessary to access the internet and the MatrixCare Engage Platform. You agree that it is your responsibility to comply with all applicable laws and to ensure adequate security of your equipment and related peripherals.

3.7 Access

You will have access to any Patient Data so long as you remain an active Customer of MC. If any of your accounts are terminated or suspended for any reason, you will not have access to any Patient Data or Content. MC retains ownership of any usage data of the MatrixCare Engage Platform. You agree that the MatrixCare Engage Platform is not a permanent medical record archive or storage system. In addition, you are solely responsible for archiving the data or otherwise complying with your medical record policies and procedures. MC does not provide any services related to archival of data. If MC does offer archiving functionality in the future, these Terms will be amended to address archival processes, payment and responsibility.

4 Additional Terms for the MatrixCare Engage Platform

4.1 Additional guidelines

When using the MatrixCare Engage Platform, you may be subject to any additional posted guidelines or terms and conditions applicable to specific services and features, which may be posted from time to time (the Guidelines). The Guidelines are hereby incorporated by reference into the Terms. In addition, your use of the MatrixCare Engage Platform is governed by the MC privacy policy available at <http://www.matrixcare.com/privacy/> (the Privacy Policy), which is hereby incorporated by reference into the Terms, and you consent to the collection, use and disclosure of any Personal Information provided by you to use in accordance with the Privacy Policy.

4.2 Modification of Terms

We reserve the right, at our discretion, to change, modify, add, or remove portions of these Terms at any time. Check these Terms and any Guidelines periodically for changes. Your continued use of the MatrixCare Engage Platform after the posting of changes constitutes your binding acceptance of such changes. For any material changes to these Terms, such amended terms shall automatically be effective after they are initially posted on the MatrixCare Engage Platform.

4.3 Restrictions

As a condition of your use of the MatrixCare Engage Platform, you will not use the MatrixCare Engage Platform for any purpose that is unlawful or prohibited by these Terms. You must not use or allow the use of any web scrapping in connection with the MatrixCare Engage Platform for any purpose without our prior written approval. The MatrixCare Engage Platform embodies substantial creative rights, confidential and proprietary information, copyrights, trademarks and trade secrets, all of which will remain the exclusive property of MC. You and your users, employees, agents and representatives will not copy, reproduce, modify, reverse engineer or decompile any portion of the MatrixCare Engage Platform. You and your users, patients, employees, agents and representatives will use the MatrixCare Engage Platform as provided in these Terms. Except as otherwise disclosed, MC and its licensors own all rights, title, and interest in and to all copyright, trademark, service mark, patent, trade secret or other intellectual property and proprietary rights worldwide in and to the MatrixCare Engage Platform.

4.4 Restriction on use by children

The MatrixCare Engage Platform is not intended for use by individuals under the age of 13. Individuals under the age of 13 may not create accounts or use the MatrixCare Engage Platform. You affirm that you are at least 13 years of age and are otherwise fully able and competent to enter into the terms, conditions, obligations, affirmations, representations, and warranties set forth in this Agreement, and to abide by and comply with this Agreement. Your access may be terminated without warning if we believe that you are under the age of 13 or are otherwise ineligible.

5 Security

5.1 Identification

During the term of the Agreement, you will have a login identification and password necessary for accessing and using the MatrixCare Engage Platform and the MatrixCare Engage Platform. You agree: (i) to protect the security of your login information; (ii) not to permit individuals other than those approved by you to use the login to gain access to your account on the MatrixCare Engage Platform; (iii) not to disclose any login information to any person except on a need-to-know basis; and (iv) to ensure that an authorized person can access your account on the MatrixCare Engage Platform only in connection with your care. You will promptly notify MC upon any loss or unauthorized disclosure of your login information. You agree to be fully responsible for all activities that occur under your login information and account or any other breach of security, and MC cannot and will not be liable for any loss or damage arising from your failure to comply with this and the following paragraph.

5.2 Unauthorized access

You will notify us immediately if you believe your username, password and/or account was accessed, taken or used without your permission, or if there is a suspected or actual violation or breach of the security of the MatrixCare Engage Platform. You must notify us immediately if you suspect a data breach involving the MatrixCare Engage Platform.

5.3 Platform security

MC will use commercially reasonable efforts to maintain the security of the MatrixCare Engage Platform, including, without limitation, constructing and maintaining firewalls and other security devices to limit any unauthorized access to information accessible from the MatrixCare Engage Platform. You and MC will each take commercially reasonable precautions, including regularly maintaining up-to-date anti-virus and other software patches, to avoid introducing any "virus," "Trojan horse," "worm" or other malicious computer code. You agree to immediately report to MC the discovery of any type of discrepancy, ping, ransomware or anomaly or error that you detect in the MatrixCare Engage Platform. You will also immediately report to MC the discovery of any virus or corruption in the MatrixCare Engage Platform or on your own equipment or third-party software applications used to connect to, or otherwise access, the MatrixCare Engage Platform that potentially affect or do affect the MatrixCare Engage Platform. MC will take prompt action to protect MC systems against any malicious attacks from you or to the MatrixCare Engage Platform, including blocking or terminating access or connections to stop the attack.

6 Patient Information and Content

6.1 Availability of Patient Data

You acknowledge and understand that data on the MatrixCare Engage Platform will not necessarily be updated in real time and you remain obligated to gather and confirm all necessary information to provide care, treatment or make any other decisions.

6.2 Clinical decisions

MC does not, through the MatrixCare Engage Platform, or its available functions, provide clinical decision support or medical advice. The MatrixCare Engage Platform is intended solely as a resource and informational tool. We are not medical professionals, and we do not discuss or advise on any issues relating to medical treatment or diagnosis of Patients. Accordingly, you are responsible for all reliance and clinical decisions based on Patient Data and information reported on the MatrixCare Engage Platform. The MatrixCare Engage Platform is not intended to, and does not provide, medical advice. Communication occurring through the MatrixCare Engage Platform, or enabled by the MatrixCare Engage Platform, must not be used for urgent matters.

While the MatrixCare Engage Platform provides tools that can assist you in the provision of health services, they are not a substitute for a Healthcare Provider's independent, medical judgment. Therefore, you agree that you will be responsible for each of the following, as applicable, when using the MatrixCare Engage Platform: (i) entering information accurately and completely; (ii) reading information displayed accurately; (iii) confirming the accuracy of life threatening information and critically important results that are accessed or stored through the MatrixCare Engage Platform in the same manner that such information and results would be confirmed or verified if it were in paper form or would otherwise be confirmed or verified if you were using applicable standards of good medical practice; and (iv) reporting any errors or suspected errors discovered in the course of using the MatrixCare Engage Platform.

WE DO NOT PROVIDE MEDICAL SERVICES OR ADVICE, INCLUDING VIA THE MATRIXCARE ENGAGE PLATFORM, AND WILL NOT PROVIDE ANY SERVICES FOR MEDICAL EMERGENCIES OR URGENT SITUATIONS. IF YOU ARE (OR SOMEONE ELSE IS) EXPERIENCING A MEDICAL EMERGENCY, CALL 911 IMMEDIATELY.

6.3 Content

You agree that you are solely responsible for the content, including Patient Data uploads (Content) sent or transmitted by you, or displayed or uploaded by you, in using the MatrixCare

Engage Platform and for compliance with all laws pertaining to the Content, including,

but not limited to, laws requiring you to obtain the consent of a third party to use the Content and to provide appropriate notices of third-party rights. You represent and warrant that you have the right to upload the Content to the MatrixCare Engage Platform and that such use does not violate or infringe on copyrights or any rights of any third party. Under no circumstances will MC be liable in any way for any: (i) Content that is transmitted or viewed while using the MatrixCare Engage Platform; (ii) errors or omissions in the MatrixCare Engage Platform; or (iii) any loss or damage of any kind incurred as a result of the use of, access to, or denial of access to the MatrixCare Engage Platform. Although MC is not responsible for any Content, MC may delete any Content, at any time without notice to you, if MC becomes aware that it violates any provision of this Agreement, or any law.

7 HIPAA Business Associate

As between you and MC, MC will use PHI in compliance with a Business Associate Agreement MC has with either you or the facility that is providing you access to the MatrixCare Engage Platform.

8 Links to third-party websites and third-party Content

8.1 Third-party materials

The MatrixCare Engage Platform may contain third-party content and links to websites operated by third parties. Such third-party content and links are included solely for your convenience and do not constitute MC's approval, endorsement or warranty of any third-party website or content. We are not responsible for the accuracy, completeness or reliability of the information, products or services offered or sold through any linked websites. You use them at your own risk. Any Personal Information you submit on them will not be collected or controlled by MC but instead will be subject to the privacy policy and terms of use of that website. We are not liable to you in any way, either directly or indirectly, for any content, errors, damage, or loss caused by or in connection with the use of or reliance on such third-party content and links. We recommend you review that website's privacy policy and terms of use before using it.

9 Intellectual property rights

9.1 Ownership

You acknowledge and agree that MC or its licensors retain all right, title, and interest in the MatrixCare Engage Platform intellectual property and all modifications and improvements to such intellectual property, regardless of whether any such modification or improvement is the result (in whole or in part) of any suggestions or changes made by you. MC retains the exclusive right to reproduce, publish, sell and license the MatrixCare Engage Platform intellectual property and usage data. At no time during the term of this Agreement, or any time thereafter, shall you challenge the validity of MC's rights in the MatrixCare Engage Platform intellectual property.

9.2 Trademarks

Certain names, logos, and other materials displayed in, and through, the MatrixCare Engage Platform may constitute trademarks, trade names, services marks, or logos (Trademarks) of MC or its affiliates. You are not authorized to use any such Trademarks without the express written permission of MC or its affiliates. Ownership of all such Trademarks and the goodwill associated therewith remains with MC or its affiliates.

9.3 Ownership by third parties

The MatrixCare Engage Platform may contain intellectual property belonging to third parties. All such intellectual property is, and will remain, the property of its respective owners. Unless otherwise expressly set forth in this Agreement, access to the MatrixCare Engage Platform does not grant a right to you to copy or use any such intellectual property.

10 Confidential information

10.1 Duty

You and MC shall: (i) hold confidential information of the other party in confidence, protecting such information with the same degree of care as the party's own confidential information, but in no case less than reasonable care (or as required by law with respect to Protected Health Information); (ii) use confidential information of the other party solely to perform the party's obligations or exercise the party's rights under this Agreement; and (iii) not transfer, display, convey or otherwise disclose or make available all or any part of such confidential information to any third party except as permitted or required by this Agreement or applicable law.

10.2 Exclusions

The foregoing shall not apply to confidential information that a receiving party can document: (i) is in the public domain through no fault of its own or breach of this Agreement; (ii) was properly known to it, without restriction, prior to disclosure by a disclosing party; (iii) was properly disclosed to it, without restriction, by another person with the legal authority to do so; (iv) is independently developed by the receiving party without use or reference to the disclosing party's confidential information; or (v) is required to be disclosed pursuant to a judicial or legislative order or proceeding; provided that the receiving party provides to the disclosing party prior notice of the intended disclosure and an opportunity to respond or object to the disclosure.

10.3 Remedies

You agree that MC and any third-party supplier's confidential information contains valuable trade secrets and proprietary information, and any actual or threatened breach of the confidentiality obligations or intellectual property rights entitles MC or the third-party supplier the right to obtain equitable relief, including injunctive relief, specific performance and any other relief that may be available from any court, without need to post a bond or other security, or to further prove actual damages or that monetary damages are not an adequate remedy. Such remedies are not exclusive and are in addition to all other remedies that may be available at law, equity or otherwise.

11 Termination

11.1 Termination

This Agreement, and your right to use the MatrixCare Engage Platform and any portal designated hereunder, will terminate automatically if you breach these Terms, or discontinue using the MatrixCare Engage Platform or if required by applicable regulatory authorities. Upon any termination of this Agreement, except as expressly otherwise provided herein: (i) you shall immediately lose access to the MatrixCare Engage Platform; and (ii) you shall immediately cease all use of any MC services or materials and promptly return to MC, or at MC's written request, destroy all documents and tangible materials containing, reflecting, incorporating or based on any MC materials or MC's confidential information, including all Personal Information that may have been downloaded or otherwise copied from the MatrixCare Engage Platform that was not originally uploaded by you, and permanently erase all such materials and confidential information from all systems you directly or indirectly control.

12 Warranty disclaimer

12.1 Legal disclaimer

MC has provided the MatrixCare Engage Platform to enhance communications among Patients, Healthcare Providers and Family Members. You understand and agree that the MatrixCare Engage Platform is not currently designed or intended for telehealth or the practice of telemedicine.

Any medical information is provided as general information only. It is not a substitute for advice from a registered physician or other health care professional. MC is not responsible for any error, omission, misrepresentation or misstatement contained in these pages. MC's products and services information are also provided as general information. It is not a substitute for user manuals or other documentation supplied with MC's products or service.

12.2 Your warranty

You represent and warrant to MC that you have obtained and will maintain all permissions, authorizations and appropriate consents from your Patients and residents required under: (i) the Telephone Consumer Protection Act of 1991 (TCPA) and any other Federal, State or local and other laws and regulations applicable to automated outbound contacts by phone, texts or email with consumers; and (ii) HIPAA or other similar federal or state law. You will not offer the MatrixCare Engage Platform outside the United States without MC's prior written consent.

12.3 Disclaimer

EXCEPT AS EXPRESSLY PROVIDED IN THESE TERMS, MC MAKES NO REPRESENTATIONS OR WARRANTIES REGARDING THE MATRIXCARE ENGAGE PLATFORM, DATA MAINTAINED ON THE PLATFORM OR ANY OTHER MATTER UNDER THIS AGREEMENT, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE, MERCHANTABILITY, ACCURACY (INCLUDING REAL-TIME ACCURACY OF PATIENT DATA), TIMELINESS, COMPLETENESS, UNINTERRUPTED OR ERROR-FREE OPERATION OR PROVISION OF THE MATRIXCARE ENGAGE PLATFORM, NON-INFRINGEMENT, OR ANY WARRANTIES ARISING FROM TRADE PRACTICE OR COURSE OF DEALING. THE MATRIXCARE ENGAGE PLATFORM, ALL SOFTWARE, MAINTENANCE AND SERVICES ARE PROVIDED TO YOU "AS IS" AND AT YOUR SOLE RISK.

13 Limitation of liability

13.1 MC limitation of liability

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, MC, MC'S AFFILIATES, SUPPLIERS, OR SUBLICENSOR'S LIABILITY FOR DAMAGES TO YOU FOR ANY CAUSE WHATSOEVER ARISING

UNDER OR RELATED TO THIS AGREEMENT, REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT OR TORT, INCLUDING NEGLIGENCE, IS LIMITED TO DIRECT, ACTUAL, PROVABLE

DAMAGES AND SHALL NOT EXCEED FIVE THOUSAND UNITED STATES DOLLARS (\$5000). IN NO EVENT WILL MC OR ITS LICENSORS BE LIABLE FOR ANY LOST PROFITS OR OTHER CONSEQUENTIAL, INCIDENTAL, INDIRECT, EXEMPLARY OR PUNITIVE DAMAGES, EVEN IF MC HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, OR FOR ANY CLAIM BY A THIRD PARTY AGAINST YOU. IN NO EVENT SHALL MC BE DEEMED TO BE ENGAGED, DIRECTLY OR INDIRECTLY, IN THE PRACTICE OF MEDICINE OR THE DISPENSING OF MEDICAL ADVICE OR MEDICAL SERVICES, NOR SHALL IT BE RESPONSIBLE OR LIABLE FOR ANY MEDICAL INTERPRETATION OR JUDGMENT.

13.2 Exclusions and limitations

SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF CERTAIN WARRANTIES OR THE LIMITATION OR EXCLUSION OF LIABILITY FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES. ACCORDINGLY, SOME OF THE ABOVE LIMITATIONS MAY NOT APPLY TO YOU.

14 Indemnity

14.1 Indemnification

You will defend, indemnify and hold harmless MC, its affiliates, and their respective officers, employees, agents, affiliates and representatives from and against any and all damage, expense (including the cost of reasonable attorneys' fees and professional fees), causes of action, suits, claims, penalties, judgments and/or liabilities arising from: (i) any breach of this Agreement by you, your officers, employees, agents, affiliates or representatives; (ii) any acts or omissions directly or indirectly caused by, arising out of, or attributable to any claim of negligence or intentional harm with respect to work or acts performed or failed to be performed pursuant to this Agreement; (iii) your use of Patient Data, including any processing of Patient Data in accordance with this Agreement; (iv) the use of any other materials or information (including any documents, data, specifications, software, content or technology) provided by or on behalf of you, including MC's compliance with any specifications or directions provided by or on behalf of you; (v) your use of the MatrixCare Engage Platform; (vi) the operation or use of the MatrixCare Engage Platform with services, software, hardware or other materials not provided by or authorized by MC, or not essential to the intended use and enjoyment of the MatrixCare Engage Platform; or (vii) a violation of any and all applicable laws, rules, or regulations by you, your officers, employees, agents, affiliates or representatives.

15 Regulatory compliance

15.1 HIPAA and other privacy laws compliance

You and MC covenant and agree that you shall each comply with all applicable provisions of HIPAA and any applicable state laws governing the privacy, security or intellectual property rights, internet, confidentiality of Personal Information with respect to your respective rights or MC's respective rights, obligations and activities pursuant to these Terms, including the access, use or disclosure of Protected Health Information.

15.2 Consents and authorizations

You shall, as applicable, obtain all consents, authorizations and requests for rights to access, from a Patient or otherwise, necessary for you to use and for Personal Information to be utilized by the MatrixCare Engage Platform in the manner set forth in this Agreement.

16 Governing law and statute of limitations

16.1 Governing law

This Agreement shall be deemed to have been made in the State of Minnesota, and shall be governed by and construed in accordance with its laws as a contract made and performed therein. Any claims between the parties to this Agreement must be brought solely and exclusively in the State of Minnesota and any suit may not be brought in any other jurisdiction. You and MC submit to the personal jurisdiction of any federal or state court in the State of Minnesota and the appellate courts having jurisdiction of appeals in such courts.

16.2 Class action

To the extent permitted by applicable laws, all controversies and claims arising under or relating to these Terms are to be resolved in accordance with the governing laws set out in these Terms. All proceedings shall be conducted in the language of the governing law. Subject to applicable law, each party shall bear its own costs, expenses and attorneys' fees (and all related costs and expenses) incurred in connection with any proceeding arising from or related to any transaction contemplated by these Terms, and in connection with enforcing any judgment or order thereby obtained. Each party further agrees to waive any right to pursue a dispute by asserting a disputed claim in a representative capacity, or participating in a class action with respect to the MatrixCare Engage Platform. However, in those cases where the rules governing jurisdiction and venue would be void under the laws of your respective state, the rules governing jurisdiction and venue for litigation and other disputes in your respective country will apply.

16.3 Statute of limitations

You agree that regardless of any statute or law to the contrary, any claim or cause of action arising out of, or related to, these Terms or use of the MatrixCare Engage Platform or the MatrixCare Engage Platform, must be filed within one (1) year after such claim or cause of action arose or be forever barred.

17 Miscellaneous

17.1 Entire agreement

These Terms, the Privacy Policy and any other applicable agreements between you and MC, if any, constitute the entire agreement between you and us pertaining to your use of the MatrixCare Engage Platform. The terms, conditions and warranties contained in these Terms that by their nature and context are intended to survive termination will so survive. Without limiting forgoing, the following Sections survive the expiration or termination of these Terms for any reason whatsoever: Sections 3.7, 8.1, 9, 10, 11.1, 12, 13, 14, 16 and 17.

17.2 Force majeure

Neither you nor MC shall be liable for any loss, damages or penalty resulting from a delay in performance hereunder when such delay is due to causes beyond the reasonable control of such party, including, but not limited to: supplier delay, force majeure, acts of God, labor unrest, fire, explosion, earthquake, accident, acts of public enemy, war, rebellion, insurrection, sabotage, global pandemic, epidemic, quarantine restrictions, labor or material shortages,

embargoes, failure or delays in transportation, unavailability of components, material or machinery for the MatrixCare Engage Platform, acts of governmental authorities or judicial action, or material interruption in telecommunications or utility service. Supplier delays, material shortage or unavailability of components, must be due to market conditions impacting all similar customers that cannot be remedied by expedited or alternative shipment methods at MC's cost. In any such event, the deadline for performance hereunder shall be deemed extended for a period equal to the delay. Further, MC will not be held in breach of this Agreement if it fails to perform its obligations under this Agreement to the extent such non-performance is attributable to acts, errors or omissions by you or a third party acting on your behalf.

17.3 Waiver and severability

Failure by either party to exercise any of its rights under, or to enforce any provision of, this Agreement will not be deemed a waiver or forfeiture of such rights or ability to enforce such provision. If any provision of this Agreement is held by a court of competent jurisdiction to be illegal, invalid or unenforceable, that provision will be amended to achieve as nearly as possible, the same economic effect of the original provision and the remainder of this Agreement will remain in full force and effect.

17.4 Injunctive relief

You acknowledge that any use of the MatrixCare Engage Platform contrary to this Agreement, or any transfer, sublicensing, copying or disclosure of technical information or materials related to the Services, may cause irreparable injury to MC and its affiliates, suppliers and any other party authorized by MC to resell, distribute, or promote the MatrixCare Engage Platform; and under such circumstances MC, its affiliates, suppliers and resellers will be entitled to equitable relief, without posting bond or other security, including, but not limited to, preliminary and permanent injunctive relief.

17.5 Relationship of the parties

Nothing in this Agreement is intended or shall be construed to create or establish any agency, partnership or joint venture relationship between you and MC. The parties expressly disclaim such relationship, agree that they are acting solely as independent contractors hereunder and agree that they have no fiduciary duty to one another or any other special or implied duties that are not expressly stated herein. You have no authority to act as an agent for, or to incur any obligations, on behalf of, or in the name of, MC or its affiliates.

17.6 Assignment

You shall not assign your rights, duties, or obligations under the Terms without the prior written consent of MC, which may be withheld in its sole discretion. Any purported transfer of this Agreement by you without MC's written consent shall be void. This Agreement binds you, us and your and our successors, legal representatives and permitted assigns.

17.7 Transferability

You agree that your right to access and use the MatrixCare Engage Platform is non-transferable and any rights to your MatrixCare Engage Platform login information or contents within your MatrixCare Engage Platform account terminate upon your death. Upon receipt of a copy of a death certificate, your account may be terminated and all account-specific contents therein permanently deleted.

17.8 Notices

We may give notices or other communications required under these Terms by posting or providing links on other communications through the websites providing access to the MatrixCare Engage Platform.

17.9 Third-party rights

Except as expressly provided to the contrary herein, this Agreement will not be construed to confer any right or benefit on any party other than you and us and your and our permitted successors and assigns.

18 Digital Millennium Copyright Act

18.1 DMCA

MC respects the intellectual property of others. It is our policy to respond to notices of alleged infringement of copyrighted material that comply with the Digital Copyright Millennium Act (DMCA) and other applicable intellectual property laws. Our response to these notices may include removing or disabling access to material that is allegedly infringing and/or terminating the client's or user's account. To file a notice of infringement with us, please send a notice to copyright@resmed.com that includes:

- an electronic signature of a person authorized to act on behalf of the owner of an exclusive right that is allegedly infringed;
- identification of the copyrighted work claimed to have been infringed or, if multiple copyrighted works on a single website are covered by a single notification, a representative list of such works on that website;
- identification of the material that is claimed to be infringing or to be the subject of infringing activity and that is to be removed or access to which is to be disabled, and information reasonably sufficient to permit MC to locate the material;
- information reasonably sufficient to permit MC to contact you, such as an address, telephone number, and, if available, an email address at which you may be contacted;
- a statement that you have a good faith belief that use of the material in the manner complained of is not authorized by the copyright owner, its agent or the law;
- a statement that the information in the notification is accurate and, under penalty of perjury, that you are authorized to act on behalf of the owner of an exclusive right that is allegedly infringed.

You will be liable for damages (including costs and attorneys' fees) if you materially misrepresent that a product or activity is infringing your copyrights. Accordingly, if you are unsure whether material available online infringes your copyright, we suggest that you first contact an attorney.

18.2 Counter notice

If material you posted was removed or disabled, you may file a counter notice pursuant to sections 512(g)(2) and (3) of the DMCA. Understand that filing a counter notice may lead to legal proceedings between you and the complaining party. After we receive your counter notice, we will forward it to the party who submitted the original claim of copyright infringement. When we forward the counter notice, it includes your personal information. By submitting a counter notice, you consent to having your information revealed in this way.

To file a counter notice, send a notice to copyright@resmed.com that includes:

- an electronic signature of the user or client;
- identification of the material that was removed, or to which access was disabled, and the location at which the material appeared before it was removed or access to it was disabled;
- a statement under penalty of perjury that you have a good faith belief that the material was removed or disabled as a result of a mistake or misidentification of the material to be removed or disabled;
- your name, address, and telephone number, and a statement that you consent to the jurisdiction of the Federal District Court for the judicial district in which the address is located or, if your address is outside of the United States, for any judicial district in which MC may be found, and that you will accept service of process from the person who provided notification under subsection 17 U.S.C. §512 (c)(1)(C) or an agent of that person.

You will be liable for damages (including costs and attorneys' fees) if you materially misrepresent that a product or activity is not infringing the copyrights of others. Accordingly, if you are not sure whether certain material infringes the copyrights of others, we suggest that you first contact an attorney.

Written repeat infringer policy:

MC, in appropriate circumstances, will terminate the accounts of clients or users who are repeatedly charged with infringement. If a copyright owner submits a valid DMCA complaint to the address designated below, we will remove the allegedly infringing material and apply a copyright strike. If a user or client gets three copyright strikes in 90 days, their account will be terminated.

DESIGNATED AGENT FOR ALL NOTICES:

All written notices should be sent to the following Designated Agent:

Designated Agent: Legal Department—Intellectual Property

Address: 9001 Spectrum Center Boulevard, San Diego, CA 92123

Email: copyright@resmed.com

19 Contact information

If you have any questions or concerns, contact support@matrixcare.com.

By clicking the "I Agree" button, I acknowledge that I am electronically signing these Terms and agreeing to be legally bound by all of the terms, conditions and notices contained or referenced in these Terms.

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