

TERMS OF USE

1. Introduction

BY ACCESSING, USING THE PLATFORM AND/OR SIGNIFYING YOUR ACCEPTANCE TO THESE TERMS OF SERVICE, YOU AGREE TO THE TERMS OF THIS ELECTRONIC AGREEMENT ON YOUR OWN BEHALF AND ON BEHALF OF THE ACCOUNT HOLDER LISTED IN THE ACCOUNT OR APPOINTMENT CREATION, SIGN UP OR SIMILAR FORM. YOU REPRESENT AND WARRANT THAT YOU HAVE FULL AUTHORITY TO BIND THE ENTITY THAT YOU WORK FOR AND YOURSELF TO THESE TERMS OF SERVICES. IF YOU DO NOT AGREE TO THESE TERMS AND DO NOT HAVE THE AUTHORITY AS PROVIDED HEREIN, DO NOT ACCESS OR USE THE SERVICES (AS DEFINED IN THE TERMS OF SERVICES). These Terms of Use (“Agreement” or “Terms & Conditions” or “Terms of Service” or “Terms”) are a contract between you individually, the legal entity that you own, are employed or contracted under, as well as the patients and clients of said individuals and entities (individually and collectively, “you” or “your”) and NDTalk., (“NDTalk” or “us” or “our” or “we”), and govern your use of NDTalk’s Website and any affiliated sub-domains and third party applications, platforms, and sites (hereinafter collectively “Service”), your rights and obligations with respect to User Data that you place in the Service, and associated Intellectual Property Rights thereto, as well as your creation of an account by which you will access the Service, (hereinafter an “Account”) for use in connection with the Service. By accessing, using, subscribing, purchasing, or downloading any goods, services, materials, or content from the Website or Service, you agree to follow and be bound by the following Terms & Conditions and any other Terms embodied in any other agreements you enter into with us. If you do not agree with the Terms & Conditions, do not use the Website or our Service.

NOTICE OF ARBITRATION AGREEMENT AND CLASS ACTION WAIVER: THIS AGREEMENT INCLUDES A BINDING ARBITRATION CLAUSE AND A CLASS ACTION WAIVER, SET FORTH BELOW, WHICH AFFECT YOUR RIGHTS ABOUT RESOLVING ANY DISPUTE WITH US. PLEASE READ IT CAREFULLY.

These Terms of Service apply to ALL transactions made on or through the Website and which uses the Service. This Agreement is governed by the Electronic Signatures in Global and National Commerce Act. You and the account owner manifest your agreement to these Terms of Service by any act demonstrating your assent thereto, including clicking any button containing the words “I agree”, “Start your free trial”, “Book Now”, “Get Started” or similar syntax, by accessing the Website, by establishing an account, or using the Services, whether you have read these terms or not. On clicking any such button you agree to these Terms & Conditions. You should print a copy of this Agreement for your personal records.

DEFINITIONS

- “Website” or “Websites” or “Site” or “Sites” means the websites and goods and services available from the domain and sub-domains of and any related or successor

domains, and mobile applications and sites from which NDTalk may offer Service; including any physical store, the website, pages within the website, any equivalent mirrors, replacements, substitutes or backup websites, and pages that are associated with these websites that belong to the NDTalk;

- “Secure Cloud Platform” or “Managed Cloud Platform” or “Managed Mobile Applications” or “Managed Applications”, collectively “Secure Cloud Platform” or “NDTalk CMaaS Service” (Cloud Management as a Service) means the cloud platform, cloud storage, servers, and software applications, collectively “Google Cloud” or “G Suite” which are owned and operated by Google, LLC (“Google”) including all respective Intellectual Property Rights. NDTalk holds a HIPAA Business Associate Agreement with Google and provides CMaaS of their G Suite platform, serving as an administrator providing paid membership access for qualified members. This is not to be confused with the “Google G Suite HIPAA Implementation Guide Assist” Service.
- “Service” or “Services” collectively refers to goods and services and Servers as defined below, including NDTalk CMaaS Service, advertising, consulting and coaching services rendered through NDTalk Sites or third-party Sites or Managed Cloud Platform;
- “Server” or “Servers” are the online environments that support Services which are owned and operated by Google, LLC, Acuity Scheduling, Inc., Zoom Video Communications, Inc., Stripe, Inc., and Wave Financial, Inc. and Wix.com Inc.
- “User Data” means any data or images or any other media that you or your clients or patients upload, stream or submit to the Servers, Website, or other areas of the Site or Secure Cloud Platform, or generated or collected on your behalf from the Services, Website, the Service or third parties, including but not limited to Protected Health Information as that term is defined below, video, image and sound data and Transaction Data;
- “Intellectual Property Rights” means copyrights, trademarks, service marks, trade dress, publicity rights, database rights, patent rights, and other intellectual property rights or proprietary rights recognized by law;
- “HIPAA” means the Health Insurance Portability and Accountability Act of 1996;
- “Protected Health Information” or “PHI” means protected health information as defined by HIPAA’s Privacy Rule found at 45 C.F.R. § 160.103; and
- “Payment Data” means any personal or financial information collected from a credit card, debit card or other payment method, including but not limited to a cardholder’s account number, card expiration date, and CVV2.
- “Transaction Data” means your information, User Data, Payment Data, transaction information, bank information and credit card information including without limitation tokenized account information, tokens and token access codes, account information or other data or information of any kind that is provided by or generated or collected or used on your behalf to access Services;
- “Payment Processing Services” are services that enable the acceptance of payments, management of subscriptions, and performance transaction reporting, as well as analytics and other business services, primarily processed by Stripe, Inc. and Wave Financial, Inc. Servers.
- “Dispute” will have the broadest meaning possible and means any dispute, action, or other controversy between you and NDTalk relating to the Website/Servers/Services,

any transaction or relationship between you and NDTalk resulting from your use of the Website/Servers/Services, communications between you and NDTalk, or this Agreement – whether in contract, warranty, tort, laws, or regulations.

2. Verification for NDTalk

By accepting this Agreement, you represent that you are at least 18 years of age, or the legal age of majority where you reside if that jurisdiction has an older age of majority, and you have the legal authority to enter into this Agreement. You further agree that as a condition to accessing the Website and the Service, you will provide only true and accurate identification documentation to NDTalk or its third-party service providers as requested. You are responsible for the security of any verification information, such as usernames, passwords, token and access codes.

3. Establishing an Account

You must establish an Account with NDTalk to use the Secure Platform Service as a Professional. Only one person per Account may be established, i.e. per person employed by or are contracted by your entity. You agree to provide accurate, current, and complete information about yourself or yourselves (“Registration Data”) as prompted by the Data Collection Form and to keep your Registration Data accurate, current and complete by contacting us if there are any changes at carrie.mitran@gmail.com. NDTalk will assign to You an account name (your “Account ID”).

4. Responsibility for Use of Account

You, as an Account holder, are responsible for all activities conducted through your Account. In the event that fraud, violation of law, regulation or rule, or conduct that violates this Agreement occurs (whether by you or someone else) that is in any way, connected with your Account, we may suspend or terminate your use and your Account and you shall be financially responsible to NDTalk for the consequences of such use.

5. Selection and Use of Account Password

At the time your Account is created, you must select a password. You are responsible for maintaining the confidentiality of your password and are responsible for any damages, claims or other harm resulting from your disclosure, or authorization of the disclosure of your password or from any person’s use of your password to gain access to your Account or Account Name. At no time should you respond to an online request for a password other than in connection with the log-on process to the Service. Your disclosure of your password to any other person is at your own risk.

6. Fees and Billing

NDTalk provides the Service for the fees and other charges set forth on our Website. We may at any time add new Services for additional fees and charges, or prospectively modify fees and charges for existing services. You acknowledge that it is your responsibility to ensure payment in advance for all paid aspects of the Service, and to ensure that your credit or debit cards or other payment instruments accepted by NDTalk continue to be valid and sufficient for such purposes. We may suspend or terminate your use and your Accounts use, as provided in Section 22 in the event of any payment delinquency. Other services are available from NDTalk and the agreement with respect to those services and fees due to NDTalk incorporate by reference these Terms of Service as well as any specific terms and conditions presented to you.

7. Modification of Service

NDTalk reserves the right to add, modify, or eliminate aspect(s), features or functionality of the Service from time to time for the purposes of compliance with applicable laws and regulations, to effect improvements in security and functionality, to correct errors, or for any other purposes, at its discretion.

8. Privacy Policy, Protected Health Information, User Data and Use of Your Information, Data Deletion on Termination

Any information (including personally identifiable information and payment account information) you submit to our site is governed by our Privacy Policy and the terms of these Terms of Service. The Privacy Policy encompasses any and all information you may provide to our site either for purposes of creating an account, submitting an inquiry or to receive further information, updates and promotions about or related to the Website or Service. You agree to adhere to the terms and conditions to the Privacy Policy.

It is your responsibility to ensure that you have obtained all necessary consents from your patients and your clients, and that your patients or your clients have agreed to the collection of their User Data (including PHI) through the Website and the Privacy Policy and comply with all applicable laws. We will make no use of PHI that is not permitted by this Agreement or that is prohibited by applicable law, including but not limited to HIPAA. In the event that we receive a subpoena or other legal or court order compelling the disclosure of any of your or your patients' or clients' User Data (including PHI) or any of your data, unless ordered to not do so, or unless our legal counsel provides an opinion that prior notification is not authorized, we will notify you of the subpoena or other order prior to disclosing the PHI or other data to provide you with an opportunity to intervene or otherwise prevent the disclosure through applicable legal process. We will make commercially reasonable efforts to maintain the Service in a manner that includes appropriate administrative, technical, and physical security measures designed to protect the confidentiality, availability, and integrity of PHI that is in our possession, as required by HIPAA. Compliance details on our third-party service in which our Secure Platform is based can be found here: [HIPAA Compliance with G Suite and Cloud Identity](#).

In the event of termination of this Agreement, whether by your cancellation of the Agreement, your breach of, or as otherwise provided in this Agreement, we will be able to export User Data you have saved on the Service prior to the account termination date upon request to carrie.mitran@gmail.com. It is your responsibility to request export and receive from us from your account a file or files containing the User Data contained within the Service before you terminate your account, after which NDTalk will destroy the User Data for your account.

9. No Responsibility for Acts of Omissions of Third-Party Websites

The Service may contain links to, or otherwise allow connections to, third-party websites, servers, and online services or environments that are not owned or controlled by NDTalk. You agree that NDTalk is not responsible or liable for the content, policies, or practices of any third-party websites, servers, or online services or environments.

Please consult any applicable terms of use and privacy policies provided by the third party for such websites, servers, or online services or environments.

10. Your Rights and Obligations with Respect to You and Your Patients' or Clients' Data

In connection with User Data you upload or submit to the Platform, you affirm, represent, and warrant that you own or have all necessary Intellectual Property Rights, licenses, consents, and permissions to use and authorize NDTalk to use the User Data in the manner contemplated by the Service and this Agreement. You agree that by uploading or submitting any Content to or through the Servers, Website, or other areas of the Service, and permitting your clients to transmit any action data and upload any Transaction Data into the Service, you hereby automatically grant NDTalk (and its affiliates) a non-exclusive, worldwide, royalty-free, sublicensable, and transferable license to use, reproduce, distribute, prepare derivative works of, and display the User Data and Transaction Data (including User Data and Transaction Data that is created, collected or generated by the Service or NDTalk using the User Data and Transaction Data you submit) solely for the purposes of providing the Service. You agree that the license includes the right to copy, analyze and use any of your User Data and Transaction Data as NDTalk may deem necessary or desirable for purposes of debugging, testing, or providing support or development services in connection with the Service and future improvements to the Service. The license granted in this Section is referred to as the "Service Data License." You also acknowledge that the Service Data License granted to NDTalk with respect to your Content will survive the termination of your Account to permit NDTalk: (i) to retain server copies of particular instances of your User Data, including copies stored in connection with back-up, debugging, and testing procedures; and (ii) to enable the exercise of the licenses granted in this Section for any other copies or instances of the same User Data that you have not specifically deleted from the Service. Notwithstanding anything to the contrary herein, or in any payment processing agreement between you and the payment processor, you also hereby provide NDTalk (and its affiliates) an irrevocable perpetual license, authority, license and permission to obtain, copy, use, at NDTalk request, without notice to you, from payment processors, banks, card and ACH processors and gateway provider, which support the Service, all of your Transaction Data and User Data for purpose of providing you the Service.

11. Third Party Payment Services

In order to use Stripe, Inc. ("Stripe") for Payment Processing of your purchased Services, you must agree to Stripe's Account Agreement. No transactions will occur with the NDTalk until you click a "Book Now", "Add to Cart", "Purchase", or "Get Started" buttons (or other similar syntax) and are redirected to the third-party Server and prompted for payment. In addition to other terms and conditions herein as it relates to your clients' payments to you, you hereby agree that:

- NDTalk may conduct certain activities related to Stripe Payment Processing Services such as communication of information about transactions and refunds, Stripe account balance adjustments, the handling of disputes (including chargebacks), as well as other features as described in Stripe documentation.

- certain use, recurring, or application fees that may be charged to you for your use of Stripe Payment Processing Services.
- NDTalk may use and may share with Stripe, and Stripe may use and share with NDTalk, all Transaction Data, Payment Data, data about your account, your activity on their Stripe accounts, and transactions. In addition, You hereby grant permission to NDTalk to work with and interact with Stripe, in order to copy your Transaction Data, Payment Data, and User Data from your account to the Service, for the benefit of facilitating or improving use or interoperability of the Stripe payment processing services with the Services. As a condition of NDTalk enabling payment processing services through Stripe, you must provide NDTalk accurate and complete information about you and your legal entity.

12. Interruption of Service

NDTalk may on occasion need to interrupt the Service, with or without prior notice, to protect the integrity or functionality of the Service or for maintenance purposes. You agree that NDTalk will not be liable for any interruption of the Service (whether intentional or not), and you understand that you will not be entitled to any refunds of fees or other compensation for interruption of service. Likewise, you agree that in the event of loss of any User Data, we will not be liable for any purported damage or harm arising therefrom.

13. NDTalk Intellectual Property Rights and Limited Access Use Granted to You

All content and functionality on the Site, including text, graphics, logos, icons, images, and videos and the selection and arrangement thereof, in addition to any concepts, know-how, tools, frameworks, Services, algorithms, models, processes, and industry perspectives underlying or embedded in the foregoing, along with any enhancements to or derivative works thereof (the “Site Content”) is the exclusive property of NDTalk or its licensors and, to the extent applicable, is protected by U.S. and international copyright laws, with only exceptions being User Data and Site Content that is Licensed Content by third party content providers who are direct service providers to the NDTalk. Neither the Services, Site Content nor functionality of the Site may be copied, reproduced, modified, reverse engineered, altered (including the removal or disabling of any security or technological safeguards, disclaimers, or legends), published, uploaded, posted, transmitted, or distributed in any way without our written permission, except for those uses specified in Section 14 – Use of Site Content. All rights not expressly granted are reserved. The trademarks, service marks, designs, and logos (collectively, the “Trademarks”) displayed on the Site are the registered and unregistered Trademarks of NDTalk and its licensors. You agree that, except as expressly permitted by us or by our licensors, where applicable, you will not refer to or attribute any information to NDTalk or its licensors in any public medium (e.g., press release, websites, or public social media) for advertising or promotion purposes, or for the purpose of informing or influencing any third party and that you will not use or reproduce any Trademark of, or imply any endorsement by or relationship with, NDTalk or its licensors. You agree that you will not upload, publish, or submit to any part of the Service any User Data that is protected by Intellectual Property Rights or otherwise subject to proprietary rights,

including trade secret or privacy rights, unless you are the owner of such rights or have permission from the rightful owner to upload or submit the User Data and to grant NDTalk all of the access rights granted in this Agreement. You agree that NDTalk will have no liability for, and you agree to defend, indemnify, and hold NDTalk harmless for, any claims, losses or damages arising out of or in connection with your use of any User Data.

14. Use of Site Content

NDTalk hereby grants you a limited, non-exclusive, non-transferable, revocable access for the term hereof to access and display one copy of the Site Content or Service on any single computer solely for your internal, business use, provided that you do not modify the Service or Site Content in any way (including creating derivative works thereof), that you retain all copyright and other proprietary notices displayed on the Site Content, and that you otherwise comply and remain in good standing with these Terms. You may not otherwise reproduce, modify, reverse engineer, reverse assemble, disassemble, decompile, distribute, transmit, translate, post, or disclose the Site Content or any and all parts of the Service or otherwise attempt to derive the source code for any and all Services without NDTalk's prior written consent. In addition, you may not "mirror" the Site Content or any portion thereof without NDTalk's express written consent. Nothing on this Site should be construed as granting directly or indirectly, or by implication any license or right to use any NDTalk intellectual property other than as expressly set forth herein. The access granted in this section terminates automatically and immediately if you do not comply with these Terms. You agree that you will not (i) allow any person or entity not authorized by NDTalk to use or access the Software or Services, (ii) attempt to copy any ideas, features, functions or graphics contained in the Service; (iii) use the NDTalk Software in the operation of a service bureau, an application service provider or for any other purpose intended to benefit a party other than you, (iv) alter or modify the NDTalk Software.

Mobile Application Access

Subject to your compliance with these Terms and Conditions, NDTalk grants you a limited non-exclusive, non-transferable access to use the NDTalk's managed mobile applications and to access the Website via a single mobile device or computer that you own or control and to run such copy of NDTalk mobile application solely for your own limited personal use.

You shall not: (i) license, sublicense, sell, resell, transfer, assign, distribute or otherwise commercially exploit or make available to any third party the NDTalk mobile application in any way; (ii) modify or make derivative works based upon the Website or NDTalk mobile application; (iii) create Internet "links" to the Website or "frame" or "mirror" the NDTalk mobile application on any other server or wireless or Internet-based device; (iv) reverse engineer or access the NDTalk mobile application in order to (a) design or build a competitive good or service, (b) design or build a good or service using similar ideas, features, functions or graphics of the Website or NDTalk mobile application, or (c) copy any ideas, features, functions or graphics of the Website or NDTalk mobile application; or (v) launch an automated program or script, including, but not limited to, web spiders, web crawlers, web robots, web ants, web indexers, bots, viruses or worms, or any

program which may make multiple server requests per second, or unduly burdens or hinders the operation and/or performance of the Website or NDTalk mobile application.

Downloaded Mobile Sourced Application

With respect to any application accessed through or downloaded from any mobile or device application site or store (“Mobile Store Sourced Application”), you agree that you will use the Mobile Store Sourced Application only as permitted by the “Usage Rules” set forth in the applicable Mobile Store Terms of Service and by third party services which own and operate our managed mobile applications. With respect to any Mobile Store Sourced Application used with the NDTalk Online Session Service, you also agreed to the terms and conditions in Section 15 of these terms of service. NDTalk reserves all rights in and to the application not expressly granted to you under these Terms & Conditions.

15. Chat Service

Chat is a membership subscription Service comprised of third party integrated multipurpose Servers for you to use, if you wish to access your clients remotely using video/media capabilities available using the internet and desktop or mobile devices. You may schedule appointments for Online Session consults and connect with patients at the time of consult. Chat Online Session Services (named “Texting”, “Video Chat”, and “E-Journal” sessions) are for COACHING AND CONSULTING SERVICES ONLY, NOT FOR HEALTHCARE SERVICES. If you need help advertising HEALTHCARE SERVICES, request a consultation with the NDTalk:

You must make patients and clients aware of the following in writing. You must advise patients and clients, and have them execute a written consent containing the following minimum terms, prior to use of Chat and failure to do so is at your own risk:

- Chat is NOT an Emergency Service and in the event of an emergency, patients and clients must use a phone to call 911 or you or other healthcare Professional.
- Though patients and clients may be in direct, virtual contact with you through the Service, neither NDTalk nor the Service provides any medical or healthcare services or advice including, but not limited to, emergency or urgent medical services.
- You are solely responsible for the delivery of any healthcare, medical advice or care.
- Your patients and clients should not assume that You have access to any or all of the information in the Service — or that such information is current, accurate or up-to-date. NDTalk is not responsible for your reliance or non-reliance on any information in the Service.

Your Responsibilities

You are solely responsible for the delivery of healthcare and determining whether you are able and/or permitted to do so based on the patient’s location when using the Service for the Online Session. For each Online Session, you are solely responsible for:

(a) confirming that you have the necessary licenses, patient connections and

qualifications to use the Service to deliver the Online Session; and (b) providing Online Session healthcare and advice using the Service solely within the scope your licenses, qualifications and applicable regulatory requirements.

YOU ACKNOWLEDGE AND AGREE THAT NDTALK IS SOLELY PROVIDING COACHING, CONSULTING, AND TECHNOLOGY SERVICES AND IS NOT PROVIDING HEALTHCARE OR MEDICAL ADVICE OR SERVICES. NDTALK DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED – AND SHALL HAVE NO LIABILITY OR RESPONSIBILITY – IN CONNECTION WITH ANY HEALTHCARE SERVICES, MEDICAL ADVICE, PRESCRIPTIONS OR MEDICATION RECOMMENDATIONS DELIVERED THROUGH THE SERVICE.

Online Session User Data Restrictions

Your Responsibilities

You are solely responsible for the delivery of healthcare and determining whether you are able and/or permitted to do so based on the patient's location when using the Service. You may NOT use Chat sessions for the delivery of healthcare services. You are solely responsible for: (a) confirming that you have the necessary licenses, patient connections and qualifications to use the Service to deliver the Online Session; and (b) providing healthcare and advice using the Service solely within the scope your licenses, qualifications and applicable regulatory requirements and not using Chat sessions for this purpose.

YOU ACKNOWLEDGE AND AGREE THAT NDTALK IS SOLELY PROVIDING COACHING, CONSULTING, AND TECHNOLOGY SERVICES AND IS NOT PROVIDING HEALTHCARE OR MEDICAL ADVICE OR SERVICES. NDTALK DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED – AND SHALL HAVE NO LIABILITY OR RESPONSIBILITY – IN CONNECTION WITH ANY HEALTHCARE SERVICES, MEDICAL ADVICE, PRESCRIPTIONS OR MEDICATION RECOMMENDATIONS DELIVERED THROUGH THE SERVICE.

Online Session User Data Restrictions

You may not upload, store or share any User Data that violates these Terms of Service or for which you do not have all the rights necessary to grant us the license described above. Although we have no obligation to screen, edit or monitor User Data, we may delete or remove User Data at any time and for any reason.

Prohibited Conduct and Content

You will not violate any applicable law, contract, intellectual property or other third-party right or commit a tort, and you are solely responsible for your conduct while accessing or using the NDTalk Online Session Service or any Service. Without limiting the foregoing, you will not:

- Engage in any harassing, threatening, intimidating, predatory or stalking conduct;
- Attempt to circumvent any content-filtering techniques we employ or attempt to access any feature or area of the Service that you are not authorized to access; or
- Use the Service for any illegal or unauthorized purpose, or engage in, encourage or promote any activity that violates these Terms.

You may also only upload or otherwise share User Data that you have all necessary rights to disclose. You may not upload, store or share any User Data that:

- Is unlawful, libelous, defamatory, obscene, pornographic, indecent, lewd, suggestive, harassing, threatening, invasive of privacy or publicity rights, abusive, inflammatory or fraudulent;
- Would constitute, encourage or provide instructions for a criminal offense, violate the rights of any party or otherwise create liability or violate any local, state, national or international law;
- May infringe any patent, trademark, trade secret, copyright or other intellectual or proprietary right of any party;
- Contains any private or personal information of a third party, a client or patient, without such third party's consent;

In addition, although we have no obligation to screen, edit or monitor User Data, we may delete or remove or suspend the use of User Data at any time and for any reason. By accessing or using the Service, you consent to the processing, transfer and storage of information about you in and to the United States and other countries, where you may not have the same rights and protections as you do under local law.

16. Prohibited Conduct While Using the CMaaS (Cloud Management as a Service) Service

You agree that you will not:

- Post, display or transmit Data, User Data, or Transaction Data that violates any law, regulation or rule, or the rights of any third party including without limitation Intellectual Property Rights;
- Impersonate any person or entity without their consent, or otherwise misrepresent your affiliation;
- Post or transmit viruses, Trojan horses, worms, spyware, time bombs, cancelbots, or other computer programming routines that may harm the Service or interests or rights of other users, or that may harvest or collect any data or personal information about other users without their consent;
- Engage in malicious, disruptive or other conduct that impedes or interferes with other users' normal use of the Service; or

- Attempt to gain unauthorized access to any other user's Account, password or User Data, or allow more than one person to use an Account.

17. Violation of terms

Any violation by you of these Terms of Service may result in immediate suspension or termination of your Account without any refund or other compensation in addition to our legal action against you and your entity/entities.

18. Releases

You agree not to hold NDTalk liable for the Content, actions, or inactions of other users of the Service or of other third parties. As a condition of access to the Service, you release NDTalk (and its officers, directors, shareholders, agents, subsidiaries, and employees) from claims, demands, losses, liabilities and damages (actual and consequential) of every kind and nature, known and unknown, arising out of or in any way connected with any dispute you have or claim to have with one or more other users of the Service or with other third parties, including whether or not NDTalk becomes involved in any resolution or attempted resolution of the dispute. If you are a California resident, you waive California Civil Code Section 1542, which says: "A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor." If you are a resident of another jurisdiction, you waive any comparable statute or doctrine.

19. Disclaimer of Other Express and Implied Warranties

NDTALK WARRANTS THAT DURING THE TERM OF THIS AGREEMENT, THE SERVICES WILL FUNCTION IN SUBSTANTIAL CONFORMANCE TO THE SPECIFICATIONS SET FORTH ON THE WEBSITE. NDTALK PROVIDES THE SERVICE, INCLUDING WITHOUT LIMITATION THE MANAGED SOFTWARE SERVICE, THE GOODS, THE SERVICES, THE WEBSITES, AND YOUR ACCOUNT, STRICTLY ON AN "AS IS" BASIS, AND HEREBY EXPRESSLY DISCLAIMS ALL WARRANTIES OR CONDITIONS OF ANY KIND, WRITTEN OR ORAL, EXPRESS, IMPLIED OR STATUTORY, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTY OF TITLE, NONINFRINGEMENT, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. NO VALUE, EITHER EXPRESS OR IMPLIED, IS GUARANTEED OR WARRANTED WITH RESPECT TO ANY CONTENT. NOTWITHSTANDING ANY INTELLECTUAL PROPERTY RIGHTS, YOU MAY HAVE IN YOUR USER DATA OR ANY EXPENDITURE ON YOUR PART, NDTALK AND YOU EXPRESSLY DISCLAIM ANY COMPENSABLE VALUE RELATING TO OR ATTRIBUTABLE TO ANY DATA RELATING TO YOUR ACCOUNT RESIDING ON NDTALK'S MANAGED PLATFORM SERVICE. YOU ASSUME ALL RISK OF LOSS FROM USING THE SERVICE ON THIS BASIS. NDTalk does not ensure continuous, error-free, secure or virus-free operation of the Services, the Websites, the Servers, or your Account, and you understand that you shall not be entitled to refunds or other compensation based on NDTalk's failure to provide any of the foregoing other than as explicitly provided in this Agreement. NDTalk does not guarantee that by mere use of the Software you will be in compliance with HIPAA, and you understand and agree that you are responsible for maintaining any other administrative, technical and physical

measures required to maintain appropriate information security with respect to your PHI and to otherwise comply with HIPAA.

20. Disclaimer and Limitation of Liability

IN NO EVENT SHALL NDTALK OR ANY OF ITS DIRECTORS, OFFICERS, EMPLOYEES, SHAREHOLDERS, SUBSIDIARIES, AGENTS OR LICENSORS BE LIABLE TO YOU OR ANY THIRD PARTY FOR ANY SPECIAL, INCIDENTAL, INDIRECT, CONSEQUENTIAL, RELIANCE, PUNITIVE OR EXEMPLARY DAMAGES OR DISGORGEMENT OR COMPARABLE EQUITABLE REMEDY, INCLUDING WITHOUT LIMITATION ANY DAMAGES FOR LOST DATA OR LOST PROFITS, ARISING (WHETHER IN CONTRACT, TORT, STRICT LIABILITY OR OTHERWISE) OUT OF OR IN CONNECTION WITH THE SERVICE (INCLUDING ITS MODIFICATION OR TERMINATION), THE NDTALK SERVICES, THE WEBSITES, YOUR ACCOUNT (INCLUDING ITS TERMINATION OR SUSPENSION) OR THIS AGREEMENT, WHETHER OR NOT NDTALK MAY HAVE BEEN ADVISED THAT ANY SUCH DAMAGES MIGHT OR COULD OCCUR AND NOTWITHSTANDING THE FAILURE OF ESSENTIAL PURPOSE OF ANY REMEDY. THE CONTENT AND FUNCTIONALITY ON THE SITE IS PROVIDED WITH THE UNDERSTANDING THAT NDTALK IS NOT HEREIN ENGAGED IN RENDERING PROFESSIONAL ADVICE OR SERVICES TO YOU, NO SITE CONTENT IS INTENDED TO SERVE AS OR SHALL BE DEEMED INVESTMENT, LEGAL, TAX, ACCOUNTING, MEDICAL OR OTHER REGULATED ADVICE, AND THAT YOU SHALL REMAIN SOLELY RESPONSIBLE FOR YOUR USE OF ALL SITE CONTENT AND SERVICES AND ACKNOWLEDGE THAT ANY RELIANCE UPON SITE CONTENT OR SERVICE SHALL BE ENTIRELY AT YOUR SOLE OPTION AND RISK. NDTALK DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED – AND SHALL HAVE NO LIABILITY OR RESPONSIBILITY – IN CONNECTION WITH ANY HEALTHCARE SERVICES, MEDICAL ADVICE, PRESCRIPTIONS OR MEDICATION RECOMMENDATIONS DELIVERED THROUGH THE SERVICE. ALL CONTENT AND FUNCTIONALITY ON THE SITE IS PROVIDED “AS IS,” WITHOUT WARRANTY OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. NDTALK AND ITS THIRD-PARTY CONTENT PROVIDERS MAKE NO WARRANTIES, EXPRESS OR IMPLIED, AS TO THE OWNERSHIP, ACCURACY, OR ADEQUACY OF THE SITE CONTENT OR SERVICES. NDTALK SHALL HAVE NO LIABILITY OR RESPONSIBILITY FOR ANY INFORMATION PUBLISHED ON LINKED WEBSITES, CONTAINED IN ANY USER SUBMISSIONS PUBLISHED ON THE SITE, OR PROVIDED BY THIRD PARTIES. NEITHER NDTALK NOR ITS THIRD-PARTY SERVERS SHALL BE LIABLE FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, OR PUNITIVE DAMAGES OR LOSSES OR FOR LOST REVENUES OR PROFITS, WHETHER OR NOT ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR LOSSES AND REGARDLESS OF THE THEORY OF LIABILITY. To the fullest extent permitted by law, NDTalk, its officers, directors, shareholders, employees, affiliates and/or agents shall not be liable to you for any direct, indirect, incidental, special, punitive, exemplary or consequential damages whatsoever, including any damages resulting from (1) errors, mistakes, or inaccuracies of or in any Content; (2) any personal injury or property damage related to your use of NDTalk’s goods and

services; (3) any unauthorized access to or use of our third party provider servers and/or any personal information and/or other information stored therein; (4) any interruption or cessation of transmission to or from the NDTalk services; (5) the use or display of any Content posted, emailed, transmitted, or otherwise made available via the NDTalk; (6) events beyond the reasonable control of NDTalk, including any internet failures, equipment failures, electrical power failures, strikes, labor disputes, riots, insurrections, civil disturbances, shortages of labor or materials, fires, floods, storms, earthquakes, explosions, acts of God, war, terrorism, governmental actions, orders of courts, agencies or tribunals or non-performance of third parties; and/or (7) loss of use, data, profits, goodwill, or other intangible losses, resulting from the use or the inability to use any or all of NDTalk goods and services.

THE CONTENT ON THE WEBSITE IS PROVIDED "AS IS" AND WITHOUT WARRANTY OF ANY KIND, EXPRESSED OR IMPLIED. TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, WE DISCLAIM ANY AND ALL WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT. WE DO NOT WARRANT THAT THE FUNCTIONS CONTAINED IN ANY CONTENT (INCLUDING, WITHOUT LIMITATION, USER-GENERATED CONTENT) WILL BE UNINTERRUPTED OR ERROR-FREE, THAT DEFECTS WILL BE CORRECTED, OR THAT THE WEBSITE OR THE SERVERS THAT MAKE SUCH CONTENT AVAILABLE ARE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS AND YOU ASSUME THE ENTIRE COST OF ALL NECESSARY SERVICING, REPAIR OR CORRECTION OF ANY OF YOUR EQUIPMENT OR SOFTWARE. WE MAKE NO REPRESENTATIONS OR WARRANTIES REGARDING USE, OR THE RESULTS OF USE, OF ANY CONTENT, GOOD OR SERVICE CONTAINED ON OR OFFERED, MADE AVAILABLE THROUGH, OR OTHERWISE RELATED IN ANY WAY TO THE WEBSITE INCLUDING, WITHOUT LIMITATION, ANY THIRD PARTY SITE OR SERVICE LINKED TO FROM THE WEBSITE (AND SPECIFICALLY NO REPRESENTATION OR WARRANTY OF CORRECTNESS, ACCURACY, COMPLETENESS, RELIABILITY OR SAFETY).

WE EXPLICITLY DISCLAIM ANY RESPONSIBILITY FOR THE ACCURACY, COMPLETENESS OR AVAILABILITY OF INFORMATION, CONTENT AND MATERIALS FOUND ON SITES THAT LINK TO OR FROM THE WEBSITE. WE CANNOT ENSURE THAT YOU WILL BE SATISFIED WITH ANY GOOD OR SERVICE THAT YOU PURCHASE FROM A THIRD-PARTY WEBSITE THAT LINKS TO OR FROM THE WEBSITE OR THIRD-PARTY INFORMATION, CONTENT OR MATERIALS CONTAINED ON OUR WEBSITE. WE DO NOT ENDORSE ANY OF THE MERCHANDISE, NOR HAVE WE TAKEN ANY STEPS TO CONFIRM THE ACCURACY, COMPLETENESS OR RELIABILITY OF, ANY OF THE INFORMATION, CONTENT OR MATERIALS CONTAINED ON ANY THIRD-PARTY WEBSITE, INDIVIDUAL, OR ENTITY. WE DO NOT MAKE ANY REPRESENTATIONS OR WARRANTIES AS TO THE SECURITY OF ANY INFORMATION, CONTENT OR MATERIALS (INCLUDING, WITHOUT LIMITATION, CREDIT CARD AND OTHER PERSONAL INFORMATION) YOU MIGHT BE REQUESTED TO GIVE TO ANY THIRD PARTY. YOU HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVE ANY AND

ALL CLAIMS AGAINST US WITH RESPECT TO INFORMATION, CONTENT AND MATERIALS CONTAINED ON THE WEBSITE (INCLUDING, WITHOUT LIMITATION, USER-GENERATED CONTENT), ON THIRD PARTY SITES, AND ANY INFORMATION, CONTENT AND MATERIALS YOU PROVIDE TO OR THROUGH ANY SUCH THIRD PARTY SITES (INCLUDING, WITHOUT LIMITATION, CREDIT CARD AND OTHER PERSONAL INFORMATION). WE STRONGLY ENCOURAGE YOU TO MAKE WHATEVER INVESTIGATION YOU FEEL NECESSARY OR APPROPRIATE BEFORE PROCEEDING WITH ANY ONLINE OR OFFLINE TRANSACTION WITH ANY THIRD PARTY.

NOT ALL GOODS AND SERVICES ARE SUITED FOR EVERYONE. WE DO NOT ASSUME, AND SHALL NOT HAVE, ANY LIABILITY TO USERS FOR INJURY OR LOSS IN CONNECTION THEREWITH. WE MAKE NO REPRESENTATIONS OR WARRANTIES AND EXPRESSLY DISCLAIM ANY AND ALL LIABILITY CONCERNING ANY TREATMENT OR ANY ACTION FOLLOWING THE INFORMATION OFFERED OR PROVIDED WITHIN OR THROUGH THE WEBSITE. IF YOU HAVE SPECIFIC CONCERNS OR A SITUATION IN WHICH YOU REQUIRE PROFESSIONAL OR MEDICAL ADVICE, YOU SHOULD CONSULT WITH AN APPROPRIATELY TRAINED AND QUALIFIED SPECIALIST, SUCH AS A LICENSED PSYCHOLOGIST, PHYSICIAN OR OTHER HEALTH PROFESSIONAL. NEVER DISREGARD THE MEDICAL ADVICE OF A PSYCHOLOGIST, PHYSICIAN OR OTHER HEALTH PROFESSIONAL OR DELAY IN SEEKING SUCH ADVICE, BECAUSE OF THE INFORMATION, GOOD, OR SERVICE OFFERED OR PROVIDED WITHIN OR THROUGH THE WEBSITE.

BECAUSE ANY HEALTH MODIFICATION PLAN CAN RESULT IN SERIOUS INJURY, NDTALK URGES YOU TO OBTAIN A PHYSICAL EXAMINATION FROM A DOCTOR BEFORE USING ANY HEALTH MODIFICATION GOODS OR SERVICES. YOU AGREE THAT BY USING ANY GOODS OR SERVICES, YOU DO SO ENTIRELY AT YOUR OWN RISK. ANY RECOMMENDATION FOR CHANGES IN DIET OR EXERCISE OR LIFESTYLE INCLUDING THE USE OF BEHAVIOR AND/OR THOUGHT MODIFICATION, FOOD SUPPLEMENTS, WEIGHT MODIFICATION, AND/OR BODY BUILDING ENHANCEMENT GOODS ARE ENTIRELY YOUR RESPONSIBILITY AND YOU SHOULD CONSULT A PHYSICIAN PRIOR TO UNDERGOING ANY HEALTH MODIFICATIONS FOR YOURSELF OR YOUR UNBORN OR BIRTHED CHILD. YOU AGREE THAT YOU ARE VOLUNTARILY PURCHASING GOODS OR SERVICES, PARTICIPATING IN ACTIVITIES, AND USING THIS WEBSITE AND ASSUME ALL RISKS OF INJURY, ILLNESS, OR DEATH. YOU ACKNOWLEDGE THAT YOU HAVE CAREFULLY READ THIS "WAIVER AND RELEASE" AND FULLY UNDERSTAND THAT IT IS A RELEASE OF LIABILITY. YOU EXPRESSLY AGREE TO RELEASE AND DISCHARGE ALL INDEMNIFIED PARTIES (AS DEFINED BELOW) FROM ANY AND ALL CLAIMS OR CAUSES OF ACTION AND YOU AGREE TO VOLUNTARILY GIVE UP AND IRREVOCABLY WAIVE AND RELEASE ANY RIGHT THAT YOU MAY OTHERWISE HAVE TO BRING A LEGAL ACTION AGAINST ANY INDEMNIFIED PARTY FOR PERSONAL INJURY OR PROPERTY DAMAGE.

NDTalk is not a law firm, and the employees of NDTalk are not acting as your attorney. NDTalk's business coordination and consulting services are not a substitute for the

advice of an attorney. NDTalk cannot provide legal advice and can only provide liaison services at your specific direction. NDTalk is not permitted to engage in the practice of law. NDTalk is prohibited from providing any kind of advice, explanation, opinion, or recommendation to a consumer about possible legal rights, remedies, defenses, options, selection of forms or strategies.

21. Legal Relationship Between You and NDTalk; No Third-Party Beneficiaries

You acknowledge that your participation in the Service, including your creation or uploading of User Data and Content in the Service, does not make you a NDTalk employee and that you do not expect to be, and will not be, compensated by NDTalk for such activities, and you will make no claim inconsistent with these acknowledgements. In addition, no agency, partnership, joint venture, franchise relationship is intended or created by this Agreement. There are no third-party beneficiaries, intended or implied, under this Agreement.

22. Suspension and Termination of Accounts

You may terminate this Agreement by closing your Account at any time for any reason. Subject to NDTalk's obligations pursuant to Section 8, in such event, NDTalk shall have no further obligation or liability to you under this Agreement or otherwise. You may not suspend your own Account. If you suspend your Account, then the Account will be deemed terminated (See Sections 8 and 24 herein, regarding deletion of your User Data on termination). In addition, NDTalk may suspend or terminate your Account, without notice, for breach if you violate this Agreement, or any terms regarding payment of required fees and charges due under this Agreement. NDTalk may, at its sole discretion, provide You a grace period prior to termination, in the event of your breach or failure to pay fees and charges, without waiving its rights hereunder to terminate immediately upon such events. We may suspend or terminate your Account if we determine in our discretion that such action is necessary or advisable to comply with legal requirements or protect the rights or interests of NDTalk or any third party. In such event, you will not be entitled to compensation for such suspension or termination, and you acknowledge NDTalk will have no liability to you in connection with such suspension or termination. All terms of this Agreement survive any termination of account or online session access.

23. Termination of Access Upon Termination of Account

Upon termination of your Account, all access granted by NDTalk to use the Website, Software, and the Service will automatically terminate and all User Data in your Account will be deleted. All terms of this Agreement survive any termination of account or online session access.

24. Liability for Unpaid Fees Upon Termination of Account

Upon termination by You or by NDTalk of your Account, you will not receive any refund of any amounts previously paid and you will remain liable for any charges incurred or unpaid amounts owed by you to NDTalk.

25. Dispute Resolution

In the event of a Dispute between you and NDTalk (including any dispute over the validity, enforceability, or scope of this dispute resolution provision), other than with

respect to claims for injunctive relief, the Dispute will be resolved first as detailed by Section 36 and if unresolved, then by binding arbitration pursuant to the rules of the American Arbitration Association Commercial Arbitration Rules. The place of the arbitration shall be in Raleigh, North Carolina. In the event that there is any Dispute between you and NDTalk that is determined not to be subject to arbitration pursuant to the preceding sentence, you agree to submit in that event to the exclusive jurisdiction and venue of the state and federal courts located in the City of Raleigh, North Carolina. You agree that this Agreement and the relationship between you and NDTalk shall be governed by the Federal Arbitration Act and the laws of the State of North Carolina. Notwithstanding this, either party shall still be allowed to apply for injunctive or other equitable relief to protect or enforce that party's Intellectual Property Rights in any court of competent jurisdiction where the other party resides or has its principal place of business.

Class Action Waiver

Any proceedings to resolve or litigate any Dispute in any forum will be conducted solely on an individual basis. Class arbitrations, class actions, private attorney general actions, consolidation of your Dispute with other arbitrations, or any other proceeding in which either party acts or proposes to act in a representative capacity or as a private attorney general are not permitted and are waived by you, and an arbitrator will have no jurisdiction to hear such claims. If a court or arbitrator finds that the class action waiver in this section is unenforceable as to all or some parts of a Dispute, then the class action waiver will not apply to those parts. Instead, those parts will be severed and proceed in a court of law, with the remaining parts proceeding in arbitration. If any other provision of this Dispute resolution section is found to be illegal or unenforceable, that provision will be severed with the remainder of this section remaining in full force and effect.

26. Disclaimer of Warranties as to Use Outside of the United States

NDTalk is a United States-based service. We make no representation that any aspect of the Service is appropriate or available for use outside of the United States or may be used for persons who are not citizens of the United States or residents of other countries. Those who access the Service from other locations are responsible for compliance with applicable local laws. The Service is subject to applicable export laws and restrictions for which you are solely responsible with adhering to.

27. Assignment of Agreement and Account

You may not assign this Agreement or your Account without our prior written consent. You may not transfer or sublicense any licenses granted by NDTalk in this Agreement without our prior written consent. We may assign this Agreement, in whole or in part, and all related rights, licenses, benefits and obligations, without restriction, including the right to sublicense any rights and licenses under this Agreement.

28. Integration, Interpretation of Section Headings and Severability

These Agreement and the policies referenced in this Agreement sets forth the entire agreement and understanding between you and NDTalk with respect to the subject matter hereof and supersedes any prior or contemporaneous agreements or understandings. NDTalk reserves the right to modify this Agreement and Terms of Service at any time upon notification to you as provided in Section 30. If any future change is unacceptable to you, you should discontinue using the Service. Your continued use of the Service will always indicate your acceptance of this agreement and any changes to it.

You acknowledge that no other written, oral or electronic communications will serve to modify or supplement this Agreement, and you agree not to make any claims inconsistent with this understanding or in reliance on communications not part of this Agreement. The section headings used herein, including descriptive summary sentences at the start of each section, are for convenience only and shall not affect the interpretation of this Agreement. If any provision of this Agreement shall be held by a court of competent jurisdiction to be unlawful, void, or unenforceable, then in such jurisdiction that provision shall be deemed severable from these terms and shall not affect the validity and enforceability of the remaining provisions.

29. Notices

NDTalk may provide notice to you and obtain consent from you (1) through the website and/or (2) by electronic mail at the electronic mail address associated with your Account; and/or (3) by written mail communication to you at the address associated with your Account. You must give all notices required or permitted under this Agreement to NDTalk.

30. No Responsibility for Acts or Omissions of Third-Party Service Providers

NDTalk may refer names of certain third-party service providers (“Service Providers”) to you upon your request or in connection with the Service. Any Service Providers referred to you by NDTalk are not owned or controlled by NDTalk, and NDTalk does not receive any commission, fee or other compensation for referring any Service Providers to you. You agree that NDTalk is not responsible or liable in any way for the acts or omissions of any Service Providers, including, without limitation, any negligent, willful or illegal conduct. You further agree to conduct your own investigation and due diligence regarding any Service Providers referred to you by NDTalk. You agree to defend, indemnify and hold harmless NDTalk from all damages, liabilities, claims, expenses and losses relating to the referral of Service Providers to you. We may provide links to third-party websites, and some of the content appearing to be on this Site is in fact supplied, supported, or provided directly or indirectly by third parties, for example, in instances of framing of third-party websites or incorporation through framesets of content supplied by third-party servers. NDTalk has no responsibility for these third-party websites, which are governed by the terms of use and privacy policies, if any, of the applicable third-party content providers.

31. Business Associate Agreement

For purposes of complying with the requirements of HIPAA, you and NDTalk agree to be bound by each of the terms and provisions of the Business Associate Agreement, which can be found at and which is incorporated in full by this reference. If any provision

hereof is potentially or actually in conflict with the provisions of the Business Associate Agreement with respect to the treatment of Protected Health Information, the terms of the Business Associate Agreement shall prevail.

32. User postings

You acknowledge and agree that NDTalk shall own and have the unrestricted right to use, publish, and otherwise exploit any and all information that you post or otherwise publish on the Site in Showcase listings, postings, forums or message boards, questionnaire, forms, survey responses, and otherwise, and you acknowledge and agree that, by providing us any such submission, you automatically grant, and hereby do grant, to us a worldwide, non-exclusive, transferable, assignable, sublicensable, fully paid-up, royalty-free, perpetual, irrevocable license and right to use, reproduce, publish, distribute, modify and otherwise exploit such submission for any purpose, and in any form or media, not prohibited by applicable law. In addition, you hereby waive any claims against NDTalk for any alleged or actual infringements of any rights of privacy or publicity, intellectual property rights, moral rights, or rights of attribution in connection with NDTalk's use and publication of such submissions.

You covenant that you shall not post or otherwise publish on the Site any materials that (a) are threatening, libelous, defamatory, or obscene; (b) would constitute, or that encourage conduct that would constitute, a criminal offense, give rise to civil liability, or otherwise violate law; (c) infringe the intellectual property, privacy, or other rights of any third parties; (d) contain a computer virus or other destructive element; (e) contain advertising; (f) constitute or contain false or misleading statements; or (g) violates these Terms.

NDTalk does not represent or endorse the accuracy or reliability of information posted to the Site by users. In addition, NDTalk does not and cannot review all information posted to the Site by users and is not responsible for such information. However, NDTalk reserves the right to refuse to post and the right to remove any information, in whole or in part, for any reason or for no reason.

33. Notices of infringement and takedown by NDTalk

NDTalk prohibits the posting or otherwise publishing of any information that infringes or violates the copyright rights and/or other intellectual property rights (including rights of privacy and publicity) of any person or entity. If you believe that your intellectual property right (or such a right that you are responsible for enforcing) is infringed by any content on the Site, please write to NDTalk at the address shown below, giving a written statement that contains: (a) identification of the copyrighted work and/or intellectual property right claimed to have been infringed; (b) identification of the allegedly infringing material on the Site that is requested to be removed; (c) your name, address, and daytime telephone number, and an e-mail address if available; (d) a statement that you have a good faith belief that the use of the copyrighted work and/or exercise of the intellectual property right is not authorized by the owner, its agent, or the law; (e) a statement that the information in the notification is accurate, and, under penalty of perjury, that the signatory is authorized to act on behalf of the owner of the right that is allegedly infringed; and (f) the signature of the intellectual property right owner or someone authorized on the owner's behalf to assert infringement of the right. NDTalk will remove any posted submission that infringes the copyright or other intellectual

property right of any person under U.S. law upon receipt of such a statement (or any statement in conformance with 17 U.S.C. 512(c)(3)). U.S. law provides significant penalties for submitting such a statement falsely. Under appropriate circumstances, persons who repeatedly submit infringing or unlawful material will be prohibited from posting further submissions. NDTalk's contact for submission of notices under this Section 5 is:

34. Indemnification

You hereby indemnify, defend, and hold harmless NDTalk and all of its predecessors, successors, parents, subsidiaries, affiliates, officers, directors, shareholders, investors, employees, agents, representatives, and attorneys and their respective heirs, successors, and assigns ("NDTalk Indemnified Parties") from and against any and all liability, expenses, costs, or other losses ("Losses") incurred by NDTalk and/or NDTalk Indemnified Parties in connection to any claims arising out of your use of the Site and/or any breach by you of these Terms, including the representations, warranties and covenants you made, if any, by agreeing to these Term. NDTalk reserves the right to assume, at its own expense, the exclusive defense and control of any matter otherwise subject to indemnification by you.

At NDTalk's request, you agree to defend, indemnify and hold harmless NDTalk, its officers, directors, shareholders, employees, subsidiaries, and agents from all damages, liabilities, claims and expenses, including without limitation attorneys' fees and costs, arising from: (i) any breach or alleged breach by you of these Terms of Service, including without limitation your representations and warranties relating to your data, User Data; (ii) use of the NDTalk Online Session Service, or (iii) your acts, omissions or use of the Service, including without limitation your negligent, willful or illegal conduct. We reserve the right to assume the exclusive defense and control of any matter otherwise subject to indemnification by you, and in such case, you agree to cooperate with our defense of such claim.

35. Privacy

NDTalk understands that your privacy is important to you and NDTalk is committed to respecting your privacy and to protecting your personally-identifiable information (which is also referred to in some contexts and under some applicable laws as your personal data). NDTalk's Privacy Policy (available at [describes how NDTalk uses and protects your personally-identifiable information, as well as how and with whom NDTalk may share that information.](#) YOU ARE ENCOURAGED TO PRINT AND TO READ THE PRIVACY POLICY CAREFULLY AND TO CONTACT NDTALK IF YOU HAVE ANY QUESTIONS ABOUT DTALK'S PRIVACY POLICY OR THESE TERMS.

36. Governing law; jurisdiction;

These Terms are governed by the laws of the State of North Carolina without reference to the principles of conflicts of laws thereof. Any and all such claims and disputes shall be brought in, and you hereby consent to them being decided exclusively by, a court of competent jurisdiction located in the City of Raleigh, North Carolina. The application of the United Nations Convention of Contracts for the International Sale of Goods is hereby expressly excluded. Subject to any applicable law, all disputes between you and NDTalk shall only be resolved on an individual basis and you shall not have the right to

bring any claim against NDTalk as a plaintiff or a member of a class, consolidated or representative actions (or any other legal proceedings conducted by a group or by representatives on behalf of others).