

## Terms of Service

*Last Updated: October 25, 2022*

**THIS DOCUMENT CONTAINS VERY IMPORTANT INFORMATION REGARDING YOUR RIGHTS AND OBLIGATIONS, AS WELL AS CONDITIONS, LIMITATIONS, AND EXCLUSIONS THAT MIGHT APPLY TO YOU. PLEASE READ IT CAREFULLY.**

Telic Health LLC is a State of Delaware limited liability company doing business as Tabia Health that provides a systematized means to coordinate patient care delivery and management. These Terms of Service (“**Terms**”) apply to the use of the website <https://app.tabia.health/> which we use to deliver our systematized means of coordinating patient care and management, the electronic applications contained therein and any mobile applications (each an “**App**”) or other services that link to these Terms (collectively, the “**Services**”). The Services are made available by Telic Health LLC and its affiliated professional entities (“**Tabia Professional Entities**”) and their respective affiliates (collectively, “**Telic**”, “**Tabia**”, “**we**”, “**our**” or “**us**”).

By accessing, browsing, and/or using the Services, you acknowledge that you have read and agree to be bound by these Terms.

**THESE TERMS REQUIRE THE USE OF ARBITRATION ON AN INDIVIDUAL BASIS TO RESOLVE DISPUTES, RATHER THAN JURY TRIALS OR CLASS ACTIONS.**

**YOU MAY NOT USE THE SERVICES IF YOU:**

- **DO NOT AGREE TO THESE TERMS,**
- **ARE NOT AT LEAST 18 YEARS OF AGE, OR**
- **ARE PROHIBITED FROM ACCESSING OR USING THE SERVICES OR ANY CONTENTS OF SERVICES BY APPLICABLE LAW.**

**1. Changes to These Terms.** These Terms are subject to change by us at any time and without prior notice, in our sole discretion. Any changes to these Terms will be in effect as of the “Last Updated” date referenced above. If we make material changes to these Terms, we will make reasonable efforts to notify you of such changes (such as posting a notice on a Service or, if you have provided us with your email, sending you an email notification) and, if you have registered an account with a Service, we may ask you to affirmatively consent to the changes at the time of your next account login. Any use of the Services after such date shall constitute your acceptance of such revised

terms and conditions. If any change to these Terms is not acceptable to you, your sole remedy is to cease accessing, browsing and otherwise using the Services.

**2. Privacy.** Please read our Privacy Policy, available at [tabiahealth.com/legal](http://tabiahealth.com/legal), for information on our data collection, use and sharing policies and practices in connection with the Services. Please note that we provide services to health plans and may interact with you as a member of a health plan. In the course of such services, we may collect your protected health information governed by the Health Insurance Portability and Accountability Act of 1996 (“**HIPAA**”). Where that is the case, your health care provider’s HIPAA Notice of Privacy Practices will govern our collection and use of such protected health information, not the Privacy Policy.

### **3. LIMITATIONS REGARDING SERVICES.**

TABIA OR THE TABIA PROFESSIONAL ENTITIES PROVIDE A VARIETY OF DIFFERENT HEALTH AND WELLNESS SERVICES. TABIA HEALTH LLC IS NOT A HEALTHCARE PROVIDER AND THEREFORE WE DO NOT PROVIDE ANY MEDICAL ADVICE OR MEDICAL TREATMENT.

THE CONTENT AND ANY OTHER INFORMATION PROVIDED THROUGH THE SERVICES ARE FOR INFORMATIONAL PURPOSES ONLY AND SHOULD NOT BE USED FOR THE DIAGNOSIS OR TREATMENT OF ANY MEDICAL CONDITION.

ALWAYS SEEK THE ADVICE OF YOUR PHYSICIAN OR OTHER QUALIFIED HEALTH PROVIDERS BEFORE DECIDING TO START, ALTER OR DISCONTINUE ANY COURSE OF MEDICAL TREATMENT OR FOR ANY QUESTIONS REGARDING YOUR MEDICAL CONDITION, TREATMENT OR THE USE (OR FREQUENCY) OF ANY MEDICATION OR MEDICAL DEVICE. DO NOT USE THE SERVICES AS A SUBSTITUTE FOR CONSULTING WITH YOUR PHYSICIAN OR OTHER HEALTH CARE PROVIDER, AND DO NOT DISREGARD PROFESSIONAL MEDICAL ADVICE OR DELAY IN SEEKING IT BECAUSE OF ANY INFORMATION RECEIVED IN CONNECTION WITH OUR SERVICES. YOUR RELIANCE ON ANY INFORMATION OR OTHER CONTENT AVAILABLE ON OR THROUGH THE SERVICES OR OTHERWISE PROVIDED BY TABIA IS SOLELY AT YOUR OWN RISK AND WE ASSUME NO RESPONSIBILITY FOR ANY CONSEQUENCE RELATING DIRECTLY OR INDIRECTLY TO ANY ACTION OR INACTION YOU TAKE BASED ON THE CONTENT OR INFORMATION PROVIDED ON OR THROUGH THE SERVICES.

THE SERVICES ARE NOT INTENDED FOR USE IN AN EMERGENCY. IF YOU THINK YOU MAY HAVE A MEDICAL EMERGENCY, CALL YOUR DOCTOR OR 911 IMMEDIATELY. NEVER DELAY IN SEEKING PROFESSIONAL MEDICAL ADVICE OR DISREGARD SUCH ADVICE BECAUSE OF SOMETHING YOU HAVE READ ON THE SERVICES.

**4. Account Registration and Security.** Before you are able to use the Services, you may be required to register for a user account. You agree to provide complete, accurate information during the registration process and to update such information as necessary to ensure that it remains complete, accurate and up-to-date. When you create your account, you will be asked to create a username and password, which you will be solely responsible for safeguarding. You agree not to disclose your username or password to any third party, and you agree to notify us immediately at \_\_\_\_\_ if you suspect or become aware of any unauthorized use of your account. You further acknowledge and agree that you will be solely responsible for any activities or actions on or through your account, whether or not you have authorized such activities or actions. We will not be liable for any loss or damage arising from your failure to comply with these requirements. We reserve the right to disable any username, password or other identifier, whether chosen by you or provided by us, at any time in our sole discretion for any or no reason, including if, in our opinion, you have violated any provision of these Terms.

**5. Mobile Applications.** If you are accessing the Services through one of our mobile applications that links to these Terms (“App”), you acknowledge and understand that certain permissions may be required on your mobile device, including the permission to access: (i) “location services” that allows the App to get your precise or approximate location; (ii) “camera” that allows the App to take pictures; (iii) “read phone status and identity” that allows the App to access the phone features of the device to determine the phone number and device IDs, whether a call is active, and the remote number connected by a call; (iv) “view network connections” that allows the App to view information about network connections such as which networks exist and are connected; (v) “full network access” that allows the App to create network sockets and use custom network protocols; (vi) “read Google service configuration” that allows the App to read Google service configuration data, if applicable; and (vii) “prevent device from sleeping” that allows the App to prevent the device from going to sleep. Some of these permissions may consume additional battery power or incur additional data usage or charges. If you do not grant the App the permissions listed in (i) through (vii), then the

App will not function effectively and we are not responsible for the App's reduced performance.

**6. Intellectual Property.** The Services (and their entire contents, features, and functionality, including but not limited to all information, software, text, displays, images, video, and audio, and the design, selection, and arrangement thereof (collectively, "**Content**")) are owned by the Company, its licensors, or other providers of such material and are protected by United States and international copyright, trademark, patent, trade secret, and other intellectual property or proprietary rights laws. No license, right, title or interest in the Services or Content is transferred to you as a result of your downloading, accessing, viewing or using the Services or Content.

These Terms permit you to download, access, view and use the Services on any device that you own or control for your personal, non-commercial use only. You must not reproduce, distribute, modify, create derivative works of, publicly display, publicly perform, republish, download, store or transmit any of the material available through the Services or any Content, except as permitted by these Terms. You may not 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 Services or any Content. Any other use, including the reproduction, modification, distribution, transmission, republication, display or performance of the Services or the Content is strictly prohibited.

**7. Trademarks.** The Tabia name and all other trademarks, wordmarks, service marks, graphics and logos included in or made available through the Services are trademarks or trade dress of Tabia. All other marks are the property of their respective owners.

**8. Modifications to the Services.** We reserve the right to modify or withdraw the Services, and any Content we provide through the Services, in our sole discretion without notice. We will not be liable if for any reason all or any part of the Services is unavailable at any time or for any period. From time to time, we may restrict access to some parts of the Services, or an entire Service, to users, including registered users.

**9. Prohibited Uses.** You may use the Services only for lawful purposes and in accordance with these Terms.

You agree not to use the Services:

- In any way that violates any applicable federal, state, local, or international law or regulation (including, without limitation, any laws regarding the export of data or software to and from the US or other countries).
- For the purpose of exploiting, harming or attempting to exploit or harm minors in any way by exposing them to inappropriate content, asking for personally identifiable information or otherwise.
- To send, knowingly receive, upload, download, use, or re-use any material that is offensive, harmful, infringing, obscene, defamatory, abusive, deceptive, untrue, misrepresentative or illegal.
- To transmit, or procure the sending of, any advertising or promotional material.
- To impersonate or attempt to impersonate Tabia, a Tabia employee, another user or any other person or entity.
- To engage in any other conduct that restricts or inhibits anyone's use or enjoyment of the Services, or which, as determined by us, may harm Tabia or users of the Services or expose them to liability.

Additionally, you agree not to:

- Use the Services in any manner that could disable, overburden, damage or impair the Services or interfere with any other party's use of the Services.
- Use any robot, spider or other automatic device, process or means to access the Services for any purpose, including monitoring or copying any of the Content or other material on the Services.
- Use any manual process to monitor or copy any of the Content or material on the Services, or for any other purpose not expressly authorized in these Terms, without our prior written consent.
- Use any device, software or routine that interferes with the proper working of the Services.
- Introduce any viruses, Trojan horses, worms, logic bombs or other material that is malicious or technologically harmful.
- Attempt to gain unauthorized access to, interfere with, damage or disrupt any parts of the Services, the server on which the Services is stored, or any server, computer or database connected to the Services.
- Attack the Services via a denial-of-service attack or a distributed denial-of-service attack.
- Otherwise attempt to interfere with the proper working of the Services.

**11. Linked Sites; Third Party Materials.** The Services may provide access to websites, information, products, services and other materials made available by third parties ("**Third Party Materials**"). We are not responsible for any Third Party Materials (including their accuracy, validity, timeliness, completeness, reliability, integrity, quality, legality, usefulness or safety, or any intellectual property rights contained in them). We do not have any obligation to monitor Third Party Materials, and we may block or disable access to any Third Party Materials (in whole or part) through the Services at

any time. The availability of any Third Party Materials through the Services is not an endorsement of them by Tabia, and it does not imply any affiliation with any provider of Third Party Materials. Your use of Third Party Materials is at your own risk and is subject to any additional terms, conditions and policies applicable to the Third Party Materials (like their terms of service or privacy policies).

## **12. Communications.**

- **Text Messaging.** Tabia and those acting on our behalf may send you text (SMS) messages at the phone number you provide us. These messages may include operational messages about your use of the Service, as well as marketing messages. You may opt out of receiving marketing and/or operational text messages at any time by texting “STOP” or “END” in reply to such messages from the mobile device receiving the messages. You may also receive a text message confirming the receipt of your opt-out request. You acknowledge that opting out of receiving operational text messages may impact the functionality that the Service provides to you. Text messages may be sent using an automatic telephone dialing system. Your agreement to receive text messages is not a condition of any purchase or use of the Service. Standard data and message rates may apply whenever you send or receive such messages, as specified by your carrier.
- **Email.** We may send you emails concerning our Services, as well as those of third parties. You may opt out of promotional emails by following the unsubscribe instructions in the promotional email itself. If you opt out of receiving promotional messages from us, you will continue to receive administrative messages from us.

**13. Termination.** Tabia, in its sole discretion, may terminate or suspend your access to or use of the Services without notice for any reason, including, without limitation, if we believe that you have violated or acted inconsistently with the letter or spirit of these Terms. Upon termination, all provisions of this Agreement which by their nature should survive termination shall survive termination, including, without limitation, intellectual property provisions, warranty disclaimers, indemnity and limitations of liability.

**14. No Representations or Warranties.** YOUR USE OF THE SERVICES AND ANY CONTENT OR ITEMS OBTAINED THROUGH THE SERVICES IS AT YOUR OWN RISK. THE SERVICES, CONTENT AND ITEMS OBTAINED THROUGH THE SERVICES ARE PROVIDED ON AN “AS IS” AND “AS AVAILABLE” BASIS, WITHOUT ANY WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED. NEITHER TABIA NOR ANY PERSON ASSOCIATED WITH TABIA MAKES ANY WARRANTY OR REPRESENTATION WITH RESPECT TO THE COMPLETENESS, SECURITY,

RELIABILITY, QUALITY, ACCURACY OR AVAILABILITY OF THE SERVICES. WITHOUT LIMITING THE FOREGOING, NEITHER TABIA NOR ANYONE ASSOCIATED WITH TABIA REPRESENTS OR WARRANTS THAT THE SERVICES, CONTENT OR ITEMS OBTAINED THROUGH THE SERVICES WILL BE ACCURATE, RELIABLE, ERROR-FREE OR UNINTERRUPTED, THAT DEFECTS WILL BE CORRECTED, THAT OUR SERVICES OR THE SERVER THAT MAKES THEM AVAILABLE ARE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS OR THAT THE SERVICES OR ANY CONTENT OR ITEMS OBTAINED THROUGH THE SERVICES WILL OTHERWISE MEET YOUR NEEDS OR EXPECTATIONS. TO THE FULLEST EXTENT PROVIDED BY LAW, WE HEREBY DISCLAIM ALL WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, STATUTORY, OR OTHERWISE, INCLUDING BUT NOT LIMITED TO ANY WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT, AND FITNESS FOR PARTICULAR PURPOSE. THE FOREGOING DOES NOT AFFECT ANY WARRANTIES THAT CANNOT BE EXCLUDED OR LIMITED UNDER APPLICABLE LAW.

**15. Limitation of Liability.** YOU ACKNOWLEDGE AND AGREE THAT, TO THE FULLEST EXTENT PERMITTED UNDER APPLICABLE LAW, TABIA WILL NOT BE LIABLE TO YOU OR ANY OTHER PERSON, UNDER ANY CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHER THEORY, FOR ANY DIRECT, INDIRECT, INCIDENTAL, PUNITIVE, EXEMPLARY, CONSEQUENTIAL OR OTHER SPECIAL CATEGORY OF DAMAGES OF ANY KIND ARISING OUT OF OR IN CONNECTION WITH YOUR USE OF (OR INABILITY TO USE) THE SERVICES, EVEN IF AN AUTHORIZED REPRESENTATIVE OF TABIA HAS BEEN ADVISED OF OR SHOULD HAVE KNOWN OF THE POSSIBILITY OF SUCH DAMAGES. TO THE FULLEST EXTENT PERMITTED BY LAW, THIS DISCLAIMER APPLIES TO ANY DAMAGES OR INJURY ARISING FROM ANY FAILURE OF PERFORMANCE, ERROR, OMISSION, INTERRUPTION, DELETION, DEFECTS, DELAYS, LOSS OF PROFITS, USE OF DATA, LOSS OF OTHER INTANGIBLES, WORK STOPPAGE, ACCURACY OF RESULTS, LOSS OF SECURITY OF MATERIALS (INCLUDING UNAUTHORIZED INTERCEPTION BY THIRD PARTIES OF ANY MATERIALS), COMPUTER FAILURE, VIRUS OR MALFUNCTION, FILE CORRUPTION OR OTHER OUTAGE OR ERROR. WITHOUT LIMITING THE FOREGOING DISCLAIMERS, TABIA WILL NOT BE LIABLE FOR DAMAGES OF ANY KIND RESULTING FROM YOUR USE OF OR INABILITY TO USE THE SERVICES OR FROM ANY CONTENT, ITEMS OR THIRD PARTY MATERIALS, INCLUDING FROM ANY DENIAL-OF-SERVICE

ATTACK, VIRUS OR OTHER HARMFUL CODE OR MATERIAL THAT MAY AFFECT YOUR COMPUTER EQUIPMENT OR OTHER PROPERTY BASED ON YOUR ACCESS TO, OR USE OF, THE SERVICES. TO THE FULLEST EXTENT PROVIDED BY APPLICABLE LAW, THE MAXIMUM AGGREGATE LIABILITY OF TABIA FOR ALL DAMAGES, LOSSES AND CAUSES OF ACTION, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, WILL NOT EXCEED THE GREATER OF (1) \$100.00 OR (2) THE AMOUNT YOU PAID TO TABIA IN THE ONE MONTH PERIOD IMMEDIATELY PRECEDING THE DATE ON WHICH THE CLAIM AROSE. YOU AGREE AND ACKNOWLEDGE THAT IN THE PROVISION OF THE SERVICES, TABIA WILL HAVE ACCESS TO YOUR MOBILE PHONE OR OTHER MOBILE DEVICE OR REMOTE PATIENT MONITORING DEVICES, BLOOD PRESSURE MONITORS, INSULIN MONITORING DEVICES, OR OTHER SUCH ELECTRONIC DEVICES AND YOU AGREE TO INDEMNIFY, DEFEND AND HOLD TABIA HARMLESS FROM ANY AND ALL DAMAGES, LOSS OF DATA, LOSS OF USE, LOSS OF FUNCTION, CAUSED BY THE USE OF THE SERVICES, INSTALLATION OF ANY SOFTWARE CREATED BY TABIA FOR THE PROVISION OF THE SERVICES ON YOUR MOBILE PHONE OR OTHER REMOTE PATIENT MONITORING DEVICE OR OTHER DEVICE FROM WHICH TABIA'S SYSTEMS SHALL COLLECT DATA. TABIA SHALL NOT BE RESPONSIBLE FOR ANY DAMAGE TO ANY SOFTWARE OR HARDWARE DUE TO THE INSTALLATION OF OUR SOFTWARE ON ANY DEVICE, THE INTERFACING OF OUR SOFTWARE VIA ANY WIRELESS COMMUNICATION MECHANISM (INCLUDING WITHOUT LIMITATION BLUETOOTH CONNECTIVITY), OR THE MANIPULATION OF DATA ON ANY CLIENT-OWNED DEVICE DURING THE PROVISION OF OUR SERVICES.

#### **16. Arbitration Agreement.**

**PLEASE READ THE FOLLOWING SECTION CAREFULLY BECAUSE IT REQUIRES YOU TO ARBITRATE CERTAIN DISPUTES AND CLAIMS WITH US AND LIMITS THE MANNER IN WHICH YOU CAN SEEK RELIEF FROM US.** This section is referred to herein as the "**Arbitration Agreement.**" The United States Federal Arbitration Act (9 U.S.C. §§ 1-16) governs the interpretation and enforcement of this Arbitration Agreement. You and Tabia agree that any and all controversies, claims and disputes arising out of or related to these Terms or the Services or any information provided through the Services, including Content, whether based in contract, tort, warranty, statute, or any other legal or equitable basis, including without limitation, any dispute or claim relating to the formation, interpretation or enforceability of any part of these Terms



(including the scope and enforceability of this Arbitration Agreement) and any claim that all or any part of these Terms is void or voidable (collectively, “**Claims**” and individually, a “**Claim**”), shall be finally resolved by binding arbitration, rather than in court; except that you and we each retain the right: (i) to bring an individual action in small claims court (if the Claim in question qualifies for small claims court); and (ii) to seek injunctive or other equitable relief in court against actual or threatened infringement, misappropriation or violation of intellectual property rights. There is no judge or jury in arbitration, and court review of an arbitration award is limited. However, an arbitrator can award on an individual basis the same damages and relief as a court.

- Arbitration will be conducted by a single and neutral arbitrator in accordance with the American Arbitration Association’s (“**AAA**”) [Consumer Arbitration Rules and procedures](#) (the “**AAA Rules**”), as modified by this Arbitration Agreement. If there is any inconsistency between the AAA Rules and this Arbitration Agreement, the terms of this Arbitration Agreement will control unless the arbitrator determines that the application of the inconsistent Arbitration Agreement terms would not result in a fundamentally fair arbitration. To learn more about arbitration through the AAA, visit <http://www.adr.org>.

Prior to initiating arbitration, you and we agree to first make reasonable efforts to try to resolve a Claim amicably through good-faith negotiations. If a Claim cannot be resolved amicably within 60 days after a party gives written notice (email sufficient) of the Claim to the other, then either party may initiate arbitration in accordance with this Arbitration Agreement.

To initiate arbitration, a party must provide the other party with a written Demand for Arbitration as specified in the AAA Rules. If you initiate arbitration, please send your written Demand for Arbitration to:

Telic Health LLC

Address:

1350 Main Street, Unit 1204

Sarasota Florida 34236 USA

Notice Email: [legal@tabia.com](mailto:legal@tabia.com)

If we initiate arbitration, we will send our written Demand for Arbitration to you at the email or mailing address you have provided to us.

In arbitration, the arbitrator will: (i) follow these Terms and apply the governing law set forth in the “Governing Law” section of these Terms, consistent with the United States Federal Arbitration Act and applicable statutes of limitations (or, to the extent (if any) that federal law prevails, will apply the applicable federal laws of the United States, irrespective of any conflict of law principles); (ii) entertain any motion to dismiss, motion to strike, motion for judgment on the pleadings, motion for complete or partial summary judgment, motion for summary adjudication or any other dispositive motion consistent with the governing law set forth in the “Governing Law” section of these Terms or U.S. federal rules of procedure, as applicable; (iii) honor claims of privilege recognized at law; and (iv) have authority to award any form of legal or equitable relief consistent with applicable laws (except that the arbitrator may not award any punitive, incidental, indirect, special, or consequential damages). The decision of the arbitrator will be final and binding on both parties. Judgment on the arbitration award rendered may be entered in any court of competent jurisdiction.

- The arbitration shall be held in the county in which you reside or at another mutually agreed location. If the value of the relief sought is \$10,000 or less, you or Tabia may elect to have the arbitration conducted by telephone or based solely on written submissions, which election shall be binding on each party, but subject to the arbitrator’s discretion to require an in-person hearing if the circumstances warrant. Attendance at any in-person hearing may be made by telephone by either or both parties unless the arbitrator requires otherwise.
- **CLASS ACTION WAIVER.** YOU AND TABIA AGREE THAT EACH PARTY MAY BRING CLAIMS AGAINST THE OTHER ONLY ON AN INDIVIDUAL BASIS AND NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED CLASS OR REPRESENTATIVE ACTION OR PROCEEDING. UNLESS BOTH YOU AND TABIA AGREE OTHERWISE, THE ARBITRATOR MAY NOT CONSOLIDATE OR JOIN MORE THAN ONE PERSON’S OR PARTY’S CLAIMS AND MAY NOT OTHERWISE PRESIDE OVER ANY FORM OF A CONSOLIDATED, REPRESENTATIVE, OR CLASS PROCEEDING. ALSO, THE ARBITRATOR MAY AWARD RELIEF (INCLUDING MONETARY, INJUNCTIVE, AND DECLARATORY RELIEF) ONLY IN FAVOR OF THE INDIVIDUAL PARTY SEEKING RELIEF AND ONLY TO THE EXTENT NECESSARY TO PROVIDE RELIEF NECESSITATED BY THAT PARTY’S INDIVIDUAL CLAIM(S).
- You and Tabia agree that the entire arbitration proceeding will be conducted in a confidential manner and that the arbitrator’s decision and award will be kept confidential by both parties and, except as may be required by applicable law or a valid court order, will not be disclosed to any third party without the express prior written consent of both parties.

- **Costs of Arbitration.** Payment of all filing, administration, and arbitrator fees (collectively, the “**Arbitration Fees**”) will be governed by the AAA Rules. Each party will be responsible for all other fees it incurs in connection with the arbitration, including without limitation, all attorney fees.
- If a court decides that any term or provision of this Arbitration Agreement (other than Section 20 of these Terms) is invalid or unenforceable, the parties agree to replace such term or provision with a term or provision that is valid and enforceable and that comes closest to expressing the intention of the invalid or unenforceable term or provision, and this Arbitration Agreement shall be enforceable as so modified.

**17. CLASS ACTION AND JURY TRIAL WAIVER.** IF FOR ANY REASON A CLAIM ARISING OUT OF OR RELATING TO YOUR USE OF OR ACCESS TO THE SERVICES OR THESE TERMS IN ANY WAY PROCEEDS IN COURT RATHER THAN IN ARBITRATION, REGARDLESS OF WHETHER THE CLAIM IS AN ACTION, COUNTERCLAIM, OR ANY OTHER COURT PROCEEDING, BOTH PARTIES AGREE THAT TO THE EXTENT ALLOWED BY LAW, THERE WILL NOT BE A JURY TRIAL OR CLASS ACTION AND WE EACH UNCONDITIONALLY (1) WAIVE ANY RIGHT TO TRIAL BY JURY AND (2) WAIVE ANY RIGHT TO PURSUE DISPUTES ON A CLASS-WIDE BASIS, INCLUDING JOINING A CLAIM WITH THE CLAIM OF ANY OTHER PERSON OR ENTITY OR ASSERTING A CLAIM IN A REPRESENTATIVE CAPACITY ON BEHALF OF ANYONE ELSE IN ANY OTHER PROCEEDING.

**18. LIMITATION ON TIME TO FILE CLAIMS.** YOU AGREE THAT ANY CAUSE OF ACTION OR CLAIM YOU MAY HAVE AGAINST US ARISING OUT OF OR RELATED TO THESE TERMS OR THE SERVICES OR ANY CONTENT OR OTHER ITEMS PROVIDED THROUGH THE SERVICES MUST BE BROUGHT WITHIN ONE (1) YEAR AFTER THE CAUSE OF ACTION OR CLAIM ACCRUES, OR BE PERMANENTLY BARRED.

**19. Indemnification.** You agree to defend, indemnify and hold harmless Tabia and anyone associated with Tabia from and against any and all claims, liabilities, demands, losses, damages, fees, or penalties, and the cost to investigate and defend against them (including reasonable attorneys’ fees) arising out of or relating to (1) your access to or use of, or activities in connection with, the Services (including any content in any format you make available through the Services), (2) your breach or alleged breach of these Terms, or (3) any violation or alleged violation of any applicable law by you or anyone accessing the Services on your behalf. Tabia reserves the right, at our expense,

to assume exclusive defense and control of any matter otherwise subject to indemnification by you and, in any case, you agree to cooperate with us if and as requested by us in the defense and settlement of such matter.

**20. Injunctive Relief.** You hereby acknowledge that your breach of these Terms may result in immediate and irreparable harm to Tabia. Accordingly, you hereby agree that, in the event of such a breach by you, Tabia shall be entitled to equitable relief to compel you to cease and desist all unauthorized use, evaluation and/or disclosure of the Services, or Content or other information obtained through the of the Services, as well as any and all other remedies available at law or in equity.

**21. Note to International Users.** The Services are controlled by Tabia, which is located in the United States of America. We make no representation that the Services or Content are appropriate or available for use in locations outside of the United States. Accessing the Services from territories where such content, information or other materials are illegal is prohibited. Those who choose to access these Services from locations outside of the United States do so on their own initiative and are responsible for compliance with local laws.

## **22. General Terms.**

- **Governing Law.** This Terms is governed by the laws of the State of Florida, without respect to its conflict of laws provisions, except that the United States Federal Arbitration Act shall govern the interpretation and enforcement of the Arbitration Agreement contained in Section 16 The United Nations Convention on Contracts for the International Sale of Goods shall not apply to these Terms.
- **Severability.** If any provision of these Terms is found to be unlawful, invalid or unenforceable by any court having competent jurisdiction, the invalidity or unenforceability of such provision shall not affect the validity of the remaining provisions of these Terms, which shall remain in full force and effect.
- **No Waiver.** Failure of Tabia to act on or enforce any provision of these Terms shall not be construed as a waiver of that provision or any other provision in these Terms. No waiver shall be effective against Tabia unless made in writing, and no such waiver shall be construed as a waiver in any other or subsequent instance.
- **Force Majeure.** We will not be liable or responsible to you, nor be deemed to have defaulted or breached these Terms, for any failure or delay in our performance under these Terms when and to the extent such failure or delay is caused by or results from acts or circumstances beyond our reasonable control, including, without limitation, acts of God, flood, fire, earthquake, explosion,

governmental actions, war, invasion or hostilities (whether war is declared or not), terrorist threats or acts, riot or other civil unrest, national emergency, revolution, insurrection, epidemic, pandemic, lockouts, strikes or other labor disputes (whether or not relating to our workforce), or restraints or delays affecting carriers or inability or delay in obtaining supplies of adequate or suitable materials, materials or telecommunication breakdown or power outage.

- **No Third-Party Beneficiaries.** Except as expressly set forth herein, these Terms do not and are not intended to confer any rights or remedies upon any person other than you.
- **Notice; Electronic Notices.** You must provide us with notice by writing to us at our registered address. You agree that, where applicable, we may send you notice via email to the email address you have provided, and we are not responsible for your failure to receive notice if email is quarantined by your email security system (e.g., “junk” or “spam” folder) or if you fail to update your email address. You also agree that we may send you notice through the Services.
- Tabia may assign its ownership, control, or other rights to any party at any time without notice to you. These Terms will inure to the benefit of our successors, assigns, licensees, and sublicensees.
- **Section Headings.** The section headings are provided merely for convenience and shall not be given any legal import.
- **No Support.** We are under no obligation to provide support for the Services.
- **Notice Regarding Apple.** This section only applies to the extent you are using a Tabia App on an iOS device. You acknowledge that these Terms are between you and Tabia only, not with Apple Inc. (“Apple”), and Apple is not responsible for the Services or the Content or any other content thereof. Apple has no obligation to furnish any maintenance and support services with respect to the Services. If the Services fail to conform to any applicable warranty, you may notify Apple and Apple will refund any applicable purchase price for the mobile application to you; and, to the maximum extent permitted by applicable law, Apple has no other warranty obligation with respect to the Services. Apple is not responsible for addressing any claims by you or any third party relating to the Services or your possession and/or use of the Services, including: (a) product liability claims; (b) any claim that the Services fail to conform to any applicable legal or regulatory requirement; or (c) claims arising under consumer protection or similar legislation. Apple is not responsible for the investigation, defense, settlement, and discharge of any third-party claim that the Services and/or your possession and use of the Services infringe a third party’s intellectual property rights. You agree to comply with any applicable third-party terms when using the Services. Apple and Apple’s subsidiaries are third-party beneficiaries of these Terms, and upon your acceptance of these Terms, Apple will have the right (and will be

deemed to have accepted the right) to enforce these Terms against you as a third-party beneficiary of these Terms. You hereby represent and warrant that: (i) you are not located in a country that is subject to a U.S. Government embargo, or that has been designated by the U.S. Government as a “terrorist supporting” country; and (ii) you are not listed on any U.S. Government list of prohibited or restricted parties.

- **Contact.** The Services are offered by Telic Health LLC, located at \_\_\_\_\_ . You may contact us by sending correspondence to that address or at any of our numbers or email addresses displayed through the Services.
- **Entire Agreement.** These Terms constitute the entire agreement between you and Tabia with respect to the subject matter of these Terms and supersede all previous or contemporaneous agreements, whether written or oral, between the parties with respect to the subject matter. A printed version of these Terms and of any related notice given in electronic form shall be admissible in arbitral, judicial or administrative proceedings based upon or relating to these Terms to the same extent and subject to the same conditions as other business documents and records originally generated and maintained in printed form.