

# **TERMS OF USE**

(Last Updated: November 3, 2021)

## **READ CAREFULLY - IMPORTANT LEGAL INFORMATION CONTAINED HEREIN**

### **ACKNOWLEDGMENT AND ACCEPTANCE OF TERMS OF USE**

These terms of use, together with any documents they expressly incorporate by reference (collectively, these “**Terms of Use**”), constitute a **legally binding agreement** between you and Advancing Resident of OMS, LLC d/b/a AROMS (“**AROMS**,” “**we**,” “**our**” or “**us**”) and govern your access to and use of the Platform (defined below). AROMS’s websites, including, but not limited to, www.goaroms.com (the “**Website**”), mobile applications (“**Apps**”), and related services, information and communications are collectively referred to as the “**Platform**.”

PLEASE READ THESE TERMS OF USE CAREFULLY BEFORE YOU START TO USE THE PLATFORM. **BY ACCESSING AND/OR USING THE PLATFORM, YOU ACCEPT AND AGREE TO BE BOUND AND TO ABIDE BY THESE TERMS OF USE.** OUR PRIVACY POLICY, WHICH IS PUBLISHED HERE [\[ADD HYPERLINK\]](#) (“**PRIVACY POLICY**”), AND OTHER TERMS AND POLICIES ESTABLISHED BY AROMS FROM TIME TO TIME, ARE INCORPORATED HEREIN BY REFERENCE.

IF YOU DO NOT AGREE TO THESE TERMS OF USE, YOU MUST NOT ACCESS OR USE THE PLATFORM.

THE PLATFORM IS OFFERED AND AVAILABLE ONLY TO USERS WHO ARE 18 YEARS OF AGE OR OLDER, CAN FORM **LEGALLY BINDING CONTRACTS** UNDER APPLICABLE LAW. **BY USING THE PLATFORM, YOU REPRESENT AND WARRANT THAT YOU MEET ALL OF THE FOREGOING ELIGIBILITY REQUIREMENTS.** IF YOU DO NOT MEET ALL OF THESE REQUIREMENTS, YOU MUST NOT ACCESS OR USE THE PLATFORM.

All references to “**you**” or “**your**,” as applicable, mean the person who accesses, uses and/or participates in the Platform in any manner, and each of your heirs, assigns and successors. **If you use the Platform on behalf of an entity, you represent and warrant that you have the authority to bind that entity,** your acceptance of these Terms of Use will be deemed an acceptance by that entity, and “**you**” and “**your**” herein shall refer to that entity, its directors, officers, employees and agents.

### **CHANGES TO THESE TERMS OF USE**

AROMS may revise and update these Terms of Use from time to time in its sole discretion. All changes are effective only after notice thereof is provided to you, which shall be deemed to occur when they are posted on the Website or the Platform. Should you not agree with any revised Terms of Use, you should **immediately discontinue use of the Platform and notify AROMS, in writing, within five (5) business days thereof** so that we may reasonably address any specific concern you may have, including consideration of your input.

**Your continued access and/or use of the Platform** following AROMS’s posting of any revised Terms of Use **means that you accept and agree thereto**, and such shall apply to your access to and use of the Platform thereafter, upon which AROMS will rely. You are expected to check and review these Terms of Use, and any notices posted relating thereto, frequently (at least weekly), so you are aware of any changes, as they will become **binding on you** as provided herein. As consideration for your

continued authorization as a User, each time you use the Platform, you are deemed to agree to the then current version of these Terms of Use that apply.

### **ADDITIONAL DEFINED TERMS**

“**Account**” means a User’s account with AROMS that is obtained by completing the Account Registration process, and through which that User may access and utilize the Platform.

“**Account Registration**” means the process of completing and submitting a registration form to open an Account with AROMS, which includes providing all necessary information, agreeing to the Stripe Services Agreement, and otherwise complying with AROMS’s registration process.

“**AROMS Content**” means all Content AROMS makes available on or through the Platform, including any Content licensed from a third party.

“**Content**” means text, graphics, images, music, software, audio, video, information or other materials available on or through the Platform.

“**Services**” means the services and products offered by AROMS on the Platform.

“**User**” means any person or entity who accesses or uses the Platform or any of its functions for any reason.

All other capitalized terms shall have the meanings assigned to them herein.

### **USE OF THE PLATFORM**

**HEALTH INFORMATION.** THE PLATFORM AND SERVICES PROVIDE INFORMATION ABOUT THE GENERAL PRINCIPLES OF ORAL AND MAXILLOFACIAL SURGERY AND ITS ASSOCIATED DISCIPLINES AND IS NOT INTENDED AS A WORKING GUIDE TO PATIENT CARE, DRUG ADMINISTRATION OR TREATMENT. MEDICINE IS A CONSTANTLY EVOLVING FIELD AND CHANGES IN PRACTICE REGULARLY OCCUR. YOU UNDERSTAND AND AGREE THAT THIS INFORMATION IS NOT MEANT TO BE A SUBSTITUTE FOR THE ADVICE OF A PHYSICIAN OR OTHER LICENSED AND QUALIFIED MEDICAL PROFESSIONAL. YOU SHOULD NOT USE ANY INFORMATION PROVIDED ON THE PLATFORM TO DIAGNOSE HEALTH PROBLEMS OR TO ADMINISTER TREATMENT, AND SHOULD ALWAYS CONSULT A PHYSICIAN PRIOR TO TAKING ANY ACTION BASED UPON THE MEDICAL OR HEALTH-RELATED INFORMATION FOUND ON THE PLATFORM. INFORMATION ON THE PLATFORM MAY REFER TO DRUGS, DEVICES OR TECHNIQUES WHICH ARE SUBJECT TO GOVERNMENT REGULATION, AND IT IS THE RESPONSIBILITY OF THE TREATING PRACTITIONER TO COMPLY WITH ALL APPLICABLE LAWS.

ALTHOUGH CARE HAS BEEN TAKEN TO ENSURE THE ACCURACY OF INFORMATION PRESENTED ON THE PLATFORM, AROMS MAKES NO REPRESENTATIONS OR WARRANTIES WHATSOEVER, EXPRESS OR IMPLIED, WITH RESPECT TO THE COMPLETENESS, ACCURACY, OR CURRENCY OF THE INFORMATION PRESENTED.

AROMS DOES NOT ASSUME ANY LIABILITY FOR ANY INJURY AND/OR DAMAGE TO PERSONS OR PROPERTY ARISING FROM OR RELATED TO THE MATERIAL CONTAINED ON THE PLATFORM, AND YOU AGREE TO INDEMNIFY AND HOLD AROMS HARMLESS FROM ANY SUCH LIABILITY.

**Educational Use Only.** All Content is for educational and/or learning use only. AROMS is not responsible for the use of any knowledge, information, or facts gained from the Content in the practice of medicine, medical research, or any and all related medical or science applications.

In addition, while materials available on the Platform may be useful for medical coursework examinations and qualifying examinations, you understand that AROMS does not (directly or by implication) make any guarantees that the materials provided by AROMS will be tested on such examinations, and does not guarantee any results of those individuals who take such examinations.

**You must be an adult or have an adult's permission.** The Services and the Platform may only be used by individuals who are at least 18 year of age or older. You must be an adult, or have the express permission of an adult, to use the Platform. Your use of the Services or access to the Platform will be deemed to be a representation that you are 18 years of age or older or otherwise are an entity that can form legally binding contracts under applicable law. Under no circumstances may you use the Services, access the Platform, or provide any personal information about yourself to us if you are under the age of 13 years old without your parent's or legal guardian's supervision and consent.

**You must follow all laws.** You must comply with all of the terms and conditions of these Terms of Use, any policies referred to below or on the Platform, and all applicable laws, regulations and rules when you use the Platform.

**License and Restrictions.** Subject to your compliance with these Terms of Use, you are hereby granted a limited, revocable, non-exclusive right to use the Services and materials on the Platform as required in the normal course of your personal use of the Platform. Any rights not expressly granted herein are reserved by AROMS. This license does not include any resale or commercial use of the Platform or its contents; any collection and use of any product listings, descriptions, or prices; any derivative use of the Platform or its contents; any downloading or copying of account information for the benefit of another merchant; any use of data mining, robots, or similar data gathering and extraction tools; or any right to sublicense your limited license granted herein. The Platform and Content are provided to you AS IS and without any warranties of any kind. No licenses or rights are granted to you by implication or otherwise under any intellectual property rights owned or controlled by AROMS or its licensors, except for the limited licenses and rights expressly granted in these Terms of Use. AROMS reserves the right to revoke the licenses granted in this section at any time in its sole discretion.

You may not, without AROMS's prior express written permission, "mirror" any part of the Platform or any content contained on the Platform on any other server without the prior written permission of AROMS. You may not download or modify the Platform, or any portion of it. The Platform or any portion of the Platform and the Content may not be copied, modified, reproduced, duplicated, distributed, transmitted, republished, displayed, sold, resold, visited, or otherwise exploited for any commercial purpose without express written consent of AROMS. You may not frame or utilize framing techniques to enclose any trademark, logo, or other proprietary information (including images, text, page layout, or form) of AROMS without express written consent of AROMS. You may not use any meta tags or any other "hidden text" utilizing AROMS's name or trademarks without the express written consent of AROMS.

**We (and our licensors) hold the rights to the Content and Platform.** AROMS and its licensors will retain ownership of our intellectual property rights, including without limitation rights in the Content, trademarks and other logos, text, graphics, icons, images, audio clips, video clips, digital downloads and the "look and feel" of the Platform and all products and services offered by AROMS. You may not obtain any rights therein by virtue of these Terms of Use. You may not use any of our trademarks or service

marks in any way. You shall not attempt to reverse engineer any of the technology used to provide the Services.

**Other Users.** If you become aware of any conduct that violates these Terms of Use, AROMS encourages you to contact us at [info@goaroms.com](mailto:info@goaroms.com). AROMS reserves the right, but will have no obligation, to respond to such communications.

## **REGISTRATION**

Users may access the Platform without registering for an Account. To access and participate in certain features of the Platform, you will need to create a password-protected Account and complete the Account Registration process. In order to register for an Account, you may be required to fill out a registration form, provide credit card information, agree to the Stripe Services Agreement (defined below), fill out payment information, fill out questionnaires, and/or any other action required by AROMS from time to time in its sole discretion. You agree to provide accurate, current and complete information during any Account Registration or request submission process and at all other times when you access or use the Platform, and to update information as appropriate. You are solely responsible for safeguarding your AROMS password(s). You are solely responsible for all activity that occurs on your Account, and you will immediately notify AROMS in writing of any unauthorized or improper use. AROMS IS **NOT** LIABLE FOR ANY LOSSES BY ANY PARTY CAUSED BY AN UNAUTHORIZED OR IMPROPER USE OF YOUR ACCOUNT. Notwithstanding the foregoing, you may be liable for any losses sustained by AROMS or others due to such unauthorized or improper use. Your Account is nontransferable except with AROMS's written permission in accordance with AROMS's policies and procedures.

## **PURCHASING**

You understand and agree that by signing up for a paid version of the Services (or by purchasing any other goods, services, or apparel we may make available through the Services), you authorize AROMS and our payment processor, Stripe, Inc., to collect, store, transfer, and charge your payment method on file for the agreed upon amount of that transaction. By making a purchase or payment via the Platform, you agree to the [Stripe Connected Account Agreement](#), which includes the [Stripe Services Agreement](#) (collectively, the “**Stripe Services Agreement**”), the terms of which are incorporated herein by reference. By agreeing to these Terms of Use or continuing to use on the Platform, you agree to be bound by the Stripe Services Agreement, as modified by Stripe from time to time. Each User represents and acknowledges that they have reviewed and agreed to the Stripe Services Agreement.

Paid versions of the Services have a fixed initial subscription term (for example 6 months or 12 months), the price for which term you will be asked to pay upfront before accessing the paid Services. You understand and agree that at the end of the fixed initial subscription term and any subsequent subscription term, your access to the paid version of the Services, unless you elect to cancel your subscription or renew with an additional fixed length term as offered by AROMS, will automatically renew for the same subscription term, for which you will be charged, via the same payment method initially used. In order to cancel without being charged for a renewal subscription term, you will need to notify AROMS via email at [info@goaroms.com](mailto:info@goaroms.com) at least 10 days prior to the end of your then-current subscription term. Finally, you understand that recurring payment amounts may change in the future, provided that AROMS will give you at least 30 days' notice of such change with the option to cancel future payments.

All payments will be made by using the preferred payment method designated in your Account, after which you will receive a receipt by email. If your primary payment method is determined to be expired, invalid or otherwise not able to be charged, you agree that we may use a secondary payment

method in your account, if available. If we are unable to charge any methods on file with us, we reserve the right to terminate your access to the paid Services, or to terminate your Account. ALL AMOUNTS PAID BY YOU ARE FINAL AND NON-REFUNDABLE AND THERE ARE NO REFUNDS OR CREDITS FOR PARTIALLY USED SUBSCRIPTION PERIODS, UNLESS OTHERWISE DETERMINED BY AROMS. AROMS may from time to time provide certain users with promotional offers and discounts that may result in different amounts charged for the same or similar services. AROMS reserves the right to revoke such offers at its discretion.

**Risk of Loss.** Once you subscribe to the Services and we make the Services available to you, you bear responsibility for completing viewing during the stipulated subscription term. The Services may become unavailable due to conditions or reasons beyond AROMS's control, in which case AROMS will not be liable. Such conditions or reasons include, but are not limited to, Acts of God, power outages, system maintenance, programming errors, software issues, actions of third parties such as computer or software hackers, or others acting outside the law or in contradiction to these Terms of Use. The risk of loss and title for all tangible items purchased through the Platform passes to you upon delivery of the item to the carrier.

**Prices.** From time to time, we may make purchase of tangible items available on the Platform. The price for an item on the Platform may differ from the price shown in your shopping cart; this may occur because it is possible that such price may increase or decrease between the time the item is placed in a shopping cart and the time that the purchase is actually made. On rare occasions, an item may be priced incorrectly on the Platform. If the price for the item on the Platform is incorrect and is actually higher than the price provided at the time of purchase, then, at our discretion, we may either (i) contact you for instructions before shipping the item or charging you for such item; (ii) cancel the order for such item and notify you of such cancellation; or (iii) ship the item at the incorrect price to your benefit.

**Payment.** You agree to pay all charges and applicable taxes that you incur at the prices in effect when you place your order. Verification of your billing or shipping information may be required prior to our acceptance of your order. We describe the types of payment we may accept at the time of purchase.

**Free Trials.** Your AROMS experience may start with a free trial. The free trial period of your membership will be specified during sign-up. Any free trial period offered by AROMS may be terminated by AROMS for any reason in its sole discretion.

**Cancellation.** You may cancel your AROMS subscription at any time, and cancellation will be effective immediately. WE DO NOT PROVIDE REFUNDS OR CREDITS FOR ANY PARTIAL-MONTH MEMBERSHIP PERIODS OR UNVIEWED DIGITAL CONTENT. To cancel your membership, please notify AROMS via email at [info@goaroms.com](mailto:info@goaroms.com).

**Descriptions.** Descriptions, images, specifications, pricing and availability of any Services or products are subject to change without notice. We reserve the right, with or without prior notice, to limit quantities of or to discontinue any Service or product. We also reserve the right to impose conditions on any coupon or promotional code and to refuse any order in our sole discretion. IF A YOU PURCHASE AN ITEM FROM THE PLATFORM THAT IS NOT AS DESCRIBED ON THE PLATFORM, YOU UNDERSTAND AND AGREE THAT YOUR SOLE AND EXCLUSIVE REMEDY IS TO RETURN SUCH ITEM IN AN UNUSED CONDITION FOR A REFUND OF THE PURCHASE PRICE.

**All Purchases/Subscriptions Are Final.** All payments for products made available through the Platform and/or for subscriptions to the Services are final as soon as you complete your purchase.

## **PRIVACY POLICY/SECURITY**

**Privacy Policy.** You agree to the terms of AROMS's Privacy Policy, which is incorporated by reference into these Terms of Use: [\[Add web address\]](#).

**Security.** We have implemented commercially reasonable technical and organizational measures designed to secure your personal information from accidental loss and from unauthorized access, use, alteration or disclosure. However, we cannot guarantee that unauthorized third parties will be unable to defeat those measures or use your personal information for improper purposes. You acknowledge that you provide your personal information at your own risk.

## **INTELLECTUAL PROPERTY RIGHTS**

Users acknowledge and agree that AROMS Content is protected by copyright, trademark and other laws of the United States, foreign countries and international conventions. Except as expressly provided in these Terms of Use, AROMS and its licensors exclusively own all right, title and interest in and to the Platform and AROMS Content, including all associated intellectual property rights. All trademarks, service marks, logos, trade names and any other proprietary designations of AROMS used herein are trademarks or registered trademarks of AROMS. Except as expressly provided relating to AROMS's grant of a revocable limited license under these Terms of Use, nothing herein shall be construed as granting any right to or interest in AROMS's Platform or intellectual property whatsoever.

## **COPYRIGHT POLICY**

Users agree to and shall respect and abide by all applicable copyright law. AROMS will terminate the Account of any User who infringes or is believed to be infringing the rights of any copyright holders.

## **CONFIDENTIAL INFORMATION**

You acknowledge that Confidential Information (as defined below) is a valuable, special and unique asset of AROMS and agree that you will not, for the lifetime of your Account plus the period of 10 years thereafter, disclose, transfer or use (or seek to induce others to disclose, transfer or use) any Confidential Information for any purpose other than your use of the Platform in accordance with these Terms of Use. If relevant, you may disclose Confidential Information to your authorized employees and agents, provided that such are also bound to maintain the confidentiality of Confidential Information. You shall use the utmost best efforts to protect Confidential Information from unauthorized disclosure, transfer or use. You shall promptly notify AROMS, in writing, of any circumstances that may constitute unauthorized disclosure, transfer or use of Confidential Information. You shall return all originals and any copies of any and all materials containing Confidential Information to AROMS promptly upon deactivation of your Account or termination of these Terms of Use any reason whatsoever.

The term “**Confidential Information**” shall mean any and all of AROMS's trade secrets, confidential and proprietary information, and all other information and data of AROMS that is not generally known to the public or other third parties, who could derive value, economic or otherwise, from its use or disclosure. Confidential Information shall include technical data, know-how, research, product plans, products, services, customers, markets, software, developments, inventions, processes, formulas, technology, designs, drawings, engineering, hardware configuration information, marketing, finances, strategic and other proprietary materials and confidential information relating to AROMS or AROMS's business, operations or properties, including information about AROMS's staff, Users or partners, or other business information disclosed or obtained directly or indirectly in writing, orally or by drawings or observation.

## **USER REVIEWS AND COMMENTS**

Any reviews or comments you provide to AROMS in connection with the Platform shall be considered non-confidential and nonproprietary, and AROMS shall have a royalty-free, worldwide, perpetual, irrevocable and transferable right to use, distribute, copy, display, and publish such reviews or comments. AROMS shall be free to use such information on an unrestricted basis and such information shall not be returned to you.

### **ACCOUNT SUSPENSION OR TERMINATION**

AROMS may, in its discretion, with or without cause, with or without prior notice and at any time, decide to limit, block, suspend, deactivate or cancel your Account (and terminate all associated license rights to our Platform) in whole or in part. If AROMS does so, any or all of the following can occur with or without prior notice or explanation to you: (a) your Account will be deactivated or suspended, your password will be disabled, and you will not be able to access the Platform or receive assistance from AROMS support teams; (b) if appropriate in AROMS's sole discretion, we may communicate to other Users that your Account has been terminated, blocked, suspended, deactivated, cancelled or otherwise penalized in any way, and why this action has been taken; and (c) you will not be entitled to any compensation for Platform services or Services cancelled or delayed as a result of such an Account action.

You may, in your discretion, with or without cause, with or without prior notice and at any time, discontinue or cancel your use of the Platform and/or terminate your Account. If you terminate your Account, AROMS shall have no obligation to delete or return to you any Content you have posted to the Platform, including, but not limited to, any reviews.

### **MOBILE APP UPDATES AND UPGRADES**

By installing any App(s), you acknowledge and consent to the installation not only of the App(s), but also of any updates or upgrades that may thereafter be released through the Platform. The App (including any updates or upgrades) may (i) cause your device to automatically communicate with AROMS's servers to deliver the App functionality and to record usage metrics, (ii) affect App-related preferences or data stored on your device, and (iii) collect personal information as set out in our Privacy Policy. You can uninstall the App(s) at any time.

### **CHANGES TO THE PLATFORM AND SERVICES**

AROMS reserves the right, in its sole discretion, to review, improve, modify or discontinue, temporarily or permanently, the Platform, Services, Content or information through the Platform at any time, effective with or without prior notice and without any liability to AROMS. AROMS will endeavor to notify you of material changes to the Platform, but will not be liable for any failure to do so. If any future changes to the Platform are unacceptable to you or cause you to no longer be in compliance with these Terms of Use, you must deactivate your Account, and immediately stop using, the Platform. YOUR CONTINUED USE OF THE PLATFORM FOLLOWING ANY CHANGES TO THE PLATFORM CONSTITUTES YOUR COMPLETE AND IRREVOCABLE ACCEPTANCE OF ANY AND ALL SUCH CHANGES, except where prohibited by any laws or regulations in your jurisdiction. AROMS may also impose limits on certain features or restrict your access to part or all of the Platform without notice or liability.

### **THIRD PARTY SITES**

The Platform may contain links to third-party websites, advertisers, or services that are not owned or controlled by AROMS. Information provided to this website by third parties has not been

independently authenticated in whole or in part by AROMS. Such links to other websites from the Platform have been provided for your convenience only. AROMS does not endorse, sponsor, or approve any of the content of such websites. AROMS has no control over, and assumes no responsibility for, the content, privacy policies, or practices of any third party websites or services. If you access a third party website from the Platform, you do so at your own risk, and you understand that these Terms of Use and AROMS's Privacy Policy do not apply to your use of such sites. You understand that AROMS does not provide, sell, license, or lease any products or services other than products and services specifically identified as being provided by AROMS. You expressly release AROMS from any and all liability arising from your use of any third-party website or services or third party owned content. Additionally, your dealings with or participation in promotions of advertisers found on such third party sites or the Platform (if applicable), including payment and delivery of goods, and any other terms (such as warranties) are solely between you and such advertisers. You agree that AROMS shall not be responsible for any loss or damage of any sort relating to your dealings with such advertisers. We encourage you to be aware of when you leave the Platform, and to read the terms and conditions and privacy policy of any third-party website or service that you visit.

### **REPRESENTATIONS AND WARRANTIES**

You represent and warrant to AROMS that: (i) you have the right, authority and capacity to enter into these Terms of Use and to abide by the terms and conditions set forth herein, and that you will so abide; (ii) you have read, understand and agree to be bound by these Terms of Use, our Privacy Policy, and all other terms and policies adopted by AROMS from time to time as provided herein; (iii) your assent to and performance of your obligations under these Terms of Use does not constitute a breach of or conflict with any other agreement or arrangement by which you are bound, or any applicable laws, regulations or rules; (iv) these Terms of Use constitute legal, valid and binding obligations on you, enforceable in accordance with its terms set forth herein; (v) you will not infringe the patent, copyright, trademark, trade secret, right of publicity or other intellectual property or proprietary right of AROMS or any third party in your use of the Platform or the Services; and (vi) you will comply with all applicable laws, rules and regulations in your use of the Services and the Platform, including these Terms of Use.

### **INDEMNIFICATION**

You agree to defend, indemnify, and hold AROMS and its employees, representatives, agents, attorneys, affiliates, directors, officers, and members ("Indemnified Parties") harmless from any damage, loss, liability, cost or expense (including without limitation, attorneys' fees and costs) incurred in connection with any third party claim, demand or action ("Claim") brought or asserted against any of the Indemnified Parties: (i) alleging facts or circumstances that would constitute a breach of any provision of these Terms of Use by you, including, but not limited to, violations of law or allegations of violation or infringement of privacy, publicity, and intellectual property rights, (ii) arising from, related to, or connected with your use of the Platform or the Services, (iii) any other party's access and use of the Platform or the Services with your unique username, password or other appropriate security code (if such codes are required to access the Platform and the Services).

If you are a California resident, you agree to and hereby waive California Civil Code Section 1542, which provides: "A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party." If you are not a California resident, you agree to and hereby waive your rights under any statute or common law principle similar to California Civil Code Section 1542 that governs your rights in the jurisdiction of your residence.



If you are obligated to provide indemnification pursuant to this provision, AROMS may, in its sole and absolute discretion, control the disposition of any Claim at your sole cost and expense. Without limiting the foregoing, you may not settle, compromise or in any other manner dispose of any Claim without the consent of AROMS.

### **DISCLAIMERS, EXCLUSIONS AND LIMITATIONS**

**DISCLAIMER OF WARRANTIES.** AROMS PROVIDES THE PLATFORM AND THE SERVICES ON AN “AS IS” AND “AS AVAILABLE” BASIS. AROMS DOES NOT REPRESENT OR WARRANT THAT THE PLATFORM OR THE SERVICES OR THEIR USE (I) WILL BE UNINTERRUPTED OR SECURE, (II) WILL BE FREE OF DEFECTS, INACCURACIES OR ERRORS OR OTHERWISE CURRENT OR COMPLETE, (III) WILL MEET YOUR REQUIREMENTS, (IV) WILL OPERATE IN THE CONFIGURATION OR WITH OTHER HARDWARE OR SOFTWARE YOU USE, (V) THAT ANY DEFECTS OR ERRORS WILL BE CORRECTED OR (VI) OR THAT THE PLATFORM AND CONTENT ARE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS. AROMS MAKES NO WARRANTIES OTHER THAN THOSE MADE EXPRESSLY IN THESE TERMS OF SERVICE, AND HEREBY DISCLAIMS ANY AND ALL IMPLIED WARRANTIES, INCLUDING WITHOUT LIMITATION, WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE, MERCHANTABILITY AND NON-INFRINGEMENT. ANY CONTENT DOWNLOADED OR OTHERWISE OBTAINED THROUGH THE USE OF THE PLATFORM OR THE SERVICES IS DOWNLOADED AT YOUR OWN RISK AND YOU WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO YOUR COMPUTER SYSTEM OR LOSS OF DATA THAT RESULTS FROM SUCH DOWNLOAD. AROMS DOES NOT WARRANT, ENDORSE, GUARANTEE, OR ASSUME RESPONSIBILITY FOR ANY PRODUCT OR SERVICE ADVERTISED OR OFFERED BY A THIRD PARTY THROUGH THE PLATFORM OR ANY HYPERLINKED WEBSITE OR SERVICE, OR FEATURED IN ANY BANNER OR OTHER ADVERTISING, AND AROMS WILL NOT BE A PARTY TO OR IN ANY WAY MONITOR ANY TRANSACTION BETWEEN YOU AND THIRD-PARTY PROVIDERS OF PRODUCTS OR SERVICES.

**EXCLUSION OF DAMAGES.** To the maximum extent permitted by applicable law, in no event shall AROMS, its affiliates, directors, associates, partners, agents, employees or representatives be liable for any indirect, exemplary, punitive, special, incidental or consequential damages whatsoever (including but not limited to damages arising from breach of contract, warranty, tort or strict liability for loss of profits, loss of data, loss of goodwill, for business interruption, for personal injury, for loss of privacy, for failure to meet any duty including of good faith or of reasonable care, for negligence, and for any other pecuniary or other loss whatsoever), arising out of or in any way related to the use of or inability to use the Platform or the Services, regardless of the cause of action on which they are based, even if AROMS or such other persons or entities have been advised of the possibility of such damages.

**LIMITATION OF LIABILITY.** YOU ACKNOWLEDGE AND AGREE THAT, TO THE MAXIMUM EXTENT PERMITTED BY LAW, THE ENTIRE RISK ARISING OUT OF YOUR ACCESS TO AND USE OF THE PLATFORM AND SERVICES REMAINS SOLELY WITH YOU. NEITHER AROMS NOR ANY OTHER PARTY INVOLVED IN CREATING, PRODUCING OR HOSTING THE PLATFORM WILL BE LIABLE (WHETHER BASED ON WARRANTY, CONTRACT, TORT (INCLUDING NEGLIGENCE), PRODUCT LIABILITY OR ANY OTHER LEGAL THEORY, AND WHETHER OR NOT AROMS HAS BEEN INFORMED OF THE POSSIBILITY OF SUCH DAMAGE, EVEN IF A LIMITED REMEDY SET FORTH HEREIN IS FOUND TO HAVE FAILED OF ITS ESSENTIAL PURPOSE) FOR: (A) ANY INCIDENTAL, SPECIAL, EXEMPLARY OR CONSEQUENTIAL DAMAGES, INCLUDING LOST PROFITS, LOSS OF DATA OR LOSS OF GOODWILL; (B) ANY SERVICE INTERRUPTION, COMPUTER

DAMAGE OR SYSTEM FAILURE; (C) THE COST OF SUBSTITUTE PRODUCTS OR SERVICES; (D) ANY DAMAGES FOR PERSONAL OR BODILY INJURY OR EMOTIONAL DISTRESS ARISING OUT OF OR IN CONNECTION WITH THESE TERMS OF USE; OR (E) THE USE OF OR INABILITY TO USE THE PLATFORM OR SERVICES.

SUBJECT TO ALL OTHER DEFENSES AVAILABLE TO AROMS REFERENCED IN THESE TERMS OF USE, IN NO EVENT SHALL THE TOTAL AGGREGATE LIABILITY OF AROMS AND ITS AFFILIATES AND SUBSIDIARIES, AND THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES AND AGENTS, ARISING FROM OR RELATING TO THE TERMS, PLATFORM, AND/OR SERVICES, OR FROM THE USE OF OR INABILITY TO USE THE PLATFORM OR SERVICES, EXCEED THE TOTAL AMOUNT OF FEES ACTUALLY PAID TO AROMS BY YOU HEREUNDER, OR ONE HUNDRED U.S. DOLLARS IF NO SUCH PAYMENTS HAVE BEEN MADE, WHICHEVER IS GREATER.

**International Use.** The Platform and Services are controlled and operated from facilities in the United States. AROMS makes no representations that the Platform and Services are appropriate or available for use in other locations. Those who access or use the Platform and Services from countries outside of the United States do so at their own volition and are entirely responsible for compliance with local law, including but not limited to export and import regulations. If the Platform is otherwise accessed by international Users, all international Users agree to exclusive United States Jurisdiction for all disputes and agree to all the terms of this Section “ARBITRATION AND CLASS ACTION WAIVER,” Section “GOVERNING LAW,” and all other terms and provisions of these Terms of Use.

AROMS will not be liable for failing to perform under these Terms of Use by the occurrence of any event beyond its reasonable control, including, without limitation, a labor disturbance, an Internet outage or interruption of service, a communications outage, failure by a service provider to AROMS to perform, fire, terrorism, disease, pandemic, natural disaster, or war.

### **ARBITRATION AND CLASS ACTION WAIVER**

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

This Section is intended to be interpreted broadly and governs any and all disputes between AROMS and you, including but not limited to, claims arising out of or relating to any aspect of the relationship between us, whether based in contract, tort, statute, fraud, misrepresentation or any other legal theory; claims that arose before these Terms of Use or any prior agreement; and claims that may arise, including those that arise after the termination of these Terms of Use (collectively, “**Disputes**”). You agree to resolve any and all Disputes with AROMS as follows:

**Initial Dispute Resolution and Mediation.** Most disputes can be resolved informally without resorting to litigation. You can reach AROMS’s support department at [info@goaroms.com](mailto:info@goaroms.com). You and AROMS agree to use your best efforts to settle any Dispute directly through consultation through the AROMS support department. In the event a resolution is not reached thereby, you and AROMS agree to engage in a good faith mediation after an exchange of relevant documentary support and before either party initiates a binding arbitration proceeding.

**Binding Arbitration as an Exclusive Remedy.** If the parties do not reach a resolution of any Dispute within a period of thirty (30) days from the time any informal dispute resolution or mediation is initiated under the Initial Dispute Resolution provision above, then either party may initiate binding arbitration as the sole and exclusive means to resolve Disputes. Specifically, all claims arising out of or

relating to these Terms of Use or previous versions of these Terms of Use, the parties' relationship with each other, and/or your use of the Platform shall be finally resolved by binding arbitration before a single neutral arbitrator, and judgment on the award rendered by the arbitrator may be entered in any court having jurisdiction thereof. Arbitration shall be initiated solely and exclusively in the State of Utah, County of Salt Lake. You and AROMS further hereby agree to submit to the personal jurisdiction of any federal or state court in Salt Lake County, Salt Lake City, Utah in order to compel arbitration, to stay proceedings pending arbitration, or to confirm, modify, vacate or enter judgment on any award entered by the arbitrator.

Each party shall bear its own legal fees and costs of arbitration. Failure by either party to timely pay all arbitrator fees and costs, as and when billed (subject only to good faith setoffs as determined by the arbitrator), shall constitute a material breach of these Terms of Use and shall result in the entry of a default judgment against the breaching party for all claimed relief.

**Class Action Waiver.** The parties acknowledge that class action claims are not assertable under the Federal Arbitration Act. The parties further agree that any arbitration (i.e., whether under state or federal law) shall be conducted in their individual capacities only and not as a class action or other representative action, and the parties expressly waive their right to file a class action or seek relief on a class basis. YOU AND AROMS AGREE THAT EACH MAY BRING CLAIMS AGAINST THE OTHER ONLY IN YOUR OR ITS INDIVIDUAL CAPACITY, AND NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED CLASS OR REPRESENTATIVE PROCEEDING. If any court or arbitrator determines that the class action waiver set forth in this paragraph is void or unenforceable for any reason or that an arbitration can proceed on a class basis, then the arbitration provisions set forth above shall be deemed null and void in their entirety and the parties shall be deemed to have not agreed to arbitrate their Disputes.

**Exception: Litigation of Intellectual Property; Injunctive Relief.** Notwithstanding the parties' decision to resolve all Disputes through arbitration, either party may bring enforcement actions, validity determinations or claims arising from or relating to theft, piracy or unauthorized use of intellectual property in state or federal court or in the U.S. Patent and Trademark Office to protect its intellectual property rights ("intellectual property rights" means patents, copyrights, moral rights, trademarks and trade secrets, but not privacy or publicity rights). Nothing herein shall be construed to limit either parties' right to seek temporary injunctive relief in a judicial proceeding where justified under applicable rules of procedure, provided that, any such proceeding shall be solely and exclusively asserted in the State of Utah, County of Salt Lake. You and AROMS further hereby agree to submit to the personal jurisdiction of any federal or state court in Salt Lake County, Salt Lake City, Utah. You hereby waive any and all jurisdictional and venue defenses otherwise available. Both parties stipulate and agree that the posting of a bond relating thereto shall not be necessary. Either party may also seek relief in a small claims court for Disputes within the scope of that court's jurisdiction.

**JURY WAIVER.** YOU AND AROMS HEREBY WAIVE THE RIGHT TO A JURY TRIAL FOR ALL CLAIMS AND LAWSUITS BROUGHT BEFORE A COURT OF LAW, AS PERMITTED BY THESE TERMS OF USE.

**International Users.** If the Platform is accessed by international Users, all international Users agree to exclusive United States Jurisdiction for all disputes and agree to all the terms of this Section "ARBITRATION AND CLASS ACTION WAIVER," Section "GOVERNING LAW," and all other terms and provisions of these Terms of Use.

### **GOVERNING LAW**

These Terms of Use and the relationship between you and AROMS shall be governed in all respects by the laws of the State of Utah, without regard to its conflict of law provisions.

### **NOTICES AND CONSENT TO RECEIVE NOTICES ELECTRONICALLY**

You consent to receive any agreements, notices, disclosures and other communications (collectively, “**Notices**”) to which these Terms of Use refer electronically, including by email or by posting Notices on the Platform. You agree that all Notices that we provide to you electronically satisfy any legal requirement that such communications be in writing. Unless otherwise specified in these Terms of Use, all Notices under these Terms of Use shall be in writing and will be deemed to have been duly given when received, if personally delivered or sent by certified or registered mail, return receipt requested; when receipt is electronically confirmed, if transmitted by facsimile or email; or the day it is shown as delivered by the overnight delivery service’s tracking information, if sent for next day delivery by a recognized overnight delivery service.

### **TELEPHONE COMMUNICATIONS AND AGREEMENT TO BE CONTACTED**

**Your Consent to Receive Automated Calls, Texts and Emails.** You acknowledge that by voluntarily providing your telephone number(s) and email address(es) on the Platform, you expressly agree to receive calls, text messages and/or emails (which may include prerecorded voice messages, and/or autodialed calls) from AROMS and its affiliates, or from independent contractors related to promotions, your Account, registration, orientation, upcoming or scheduled Services, product alterations, changes and updates, service outages, reminders about incomplete or upcoming Services, follow ups to any push notifications delivered through our mobile application, any transaction with AROMS and/or your relationship with AROMS. You acknowledge that automated calls or text messages may be made to your telephone number(s) even if your telephone number(s) is registered on any state or federal Do Not Call list. You agree that AROMS may obtain, and you expressly agree to be contacted at, any email addresses, mailing addresses or phone numbers provided by you at any time or obtained through other lawful means, such as skip tracing, caller ID capture or other means. You agree to receive automated calls and text messages from AROMS and its affiliates, or from independent contractors even if you cancel your Account or terminate your relationship with AROMS, excepting only if you opt-out of such communications (see below). You understand that you do not have to agree to receive automated promotional calls, texts and emails as a condition of using the Platform. To opt-out of any or all communications, please see the Opt-Out Instructions below.

**Opt-Out Instructions.** To opt-out of text messages, text STOP to any text message you receive or email [info@goaroms.com](mailto:info@goaroms.com) and specify that you want to opt out of text messages. You acknowledge and agree to accept a final text message confirming your opt-out.

To opt-out of automated calls (not text messages), you must (i) provide AROMS with written notice revoking your consent to receiving automated calls; (ii) in that written notice, you must include your full name, mailing address, and the specific phone number(s) for which you wish to stop automated calls; and (iii) send this written notice to [info@goaroms.com](mailto:info@goaroms.com).

To opt-out of promotional emails, you must either (i) follow the method to unsubscribe as set forth in the most recent email you received from AROMS, or (ii) provide AROMS with written notice revoking your consent to receiving promotional emails in the same manner as opting out of automated calls set forth above.

It is your sole responsibility to notify AROMS if you no longer want to receive voice calls, text messages, or emails. You waive any rights to bring claims for unauthorized or undesired automated calls,

text messages or emails by failing to opt-out immediately or by failing to follow these instructions. **Please allow up to thirty (30) days to process any opt-out request.** Please note that if you opt out of automated calls, text messages, or emails, we reserve the right to make non-automated calls to you. Additionally, if you opt-out of any or all communications, AROMS may still contact you to give you Notices, as described above, and to inform you of important information related to your Account and use of the Platform.

**Fees and Charges.** There is no fee to receive automated telephone calls or text messages from AROMS, our agents, affiliates and independent contractors. However, you may incur a charge for these calls or text messages from your telephone carrier, which is your sole responsibility. Check your telephone plan and contact your carrier for details. You represent and warrant that you are authorized to incur such charges and acknowledge that AROMS and its affiliates and independent contractors are not responsible for such charges.

## **GENERAL**

**Force Majeure.** Other than payment obligations, neither AROMS nor you shall be liable to the other for any delay or failure in performance under these Terms of Use arising due to a cause beyond its control and without its fault or negligence. Such causes may include fires, floods, earthquakes, strikes, unavailability of necessary utilities, blackouts, acts of God, acts of declared or undeclared war, acts of regulatory agencies, pandemics or national disasters.

**No Third-Party Beneficiaries.** You agree that, except as otherwise expressly provided in these Terms of Use, there shall be no third-party beneficiaries to these Terms of Use.

**Entire Agreement.** These Terms of Use, together with the Privacy Policy and any other legal notices or additional terms and conditions or policies published by AROMS on the Platform, shall constitute the entire agreement between you and AROMS concerning the Platform or Services obtained through the Platform. You acknowledge you have not actually or reasonably relied upon any agreement, promise or covenant not included in these Terms of Use. Except as explicitly stated herein, if any provision of these Terms of Use is deemed invalid by a court of competent jurisdiction, the invalidity of such provision shall not affect the validity of the remaining provisions of these Terms of Use, which shall remain in full force and effect.

**Waiver.** No waiver of any provision of these Terms of Use shall be deemed a further or continuing waiver of such term or any other term, and AROMS's failure to assert any right or provision under these Terms of Use shall not constitute a waiver of such right or provision.

**Statute of Limitations.** The parties acknowledge and agree that regardless of any statute or law to the contrary, any claim arising out of or related to the Platform or the Services offered therein must be asserted (as evidenced by written notice) within one (1) year after the cause of action accrues. Otherwise, such cause of action shall be deemed waived and permanently barred.

**Section Headings.** The section headings in these Terms of Use are for convenience only and have no legal or contractual effect.

**Contact Information:** If you object to or have any questions about these Terms of Use or the Platform, please contact us by sending an email to [info@goaroms.com](mailto:info@goaroms.com). AROMS invites feedback from its Users and will consider proposed modifications to its Terms of Use as appropriate to enhance and benefit the interests of all participating in the use of its Platform and/or relating to its coordination of Services.