

# Helium Health

## Terms of Service

Welcome to Helium Health, the Electronic Health Records platform, designed for healthcare facilities, medical professionals and their patients, and our website [www.heliumhealth.com](http://www.heliumhealth.com) (the "Website"), together hereafter referred to in these Terms of Service as "Helium Health", "us", "our" or "we". Helium Health is owned and operated by One Global Medical Technology Ltd., a limited liability company duly registered under the Laws of the Federal Republic of Nigeria, LFN 2004, and for the purposes of this Agreement and our Privacy Policy any use of the terms "Helium Health", "us", "our" or "we" includes One Global Medical Technology Ltd., and any subsidiary legal business entity, affiliate business entity or Electronic Health Record (EHR) technology platform controlled directly or indirectly by One Global Medical Technology Ltd., without limitation. Unless otherwise specified, all references to our services (the "Service" or "Services") include the content, services defined in Section 2 hereafter, and products available through the Helium Health Website, as well as any other domains, technology, software or hardware that Helium Health provides that allows you to access and use the Services. The term "user", "you" or "your" refers to the user of the Service, including healthcare facilities, their owners and administrators; physicians, medical professionals, and patients.

The following Terms of Service, along with our Privacy Policy available here (<https://heliumhealth.com/privacy>), and any other agreement that you have executed with us ("Service Agreements"), each included herein by reference, form a legally binding contract between you and Helium Health regarding your use of our Services.

Please read the following Terms of Service ("Terms" or "Agreement") carefully before accessing or using any of the Services. Each time you access or use our Services, you, and if you are acting on behalf of a third party, such as an employer or a patient, such third party, agree to be bound by these Terms of Service and our Privacy Policy whether or not you register with us. If you do not agree to be bound by all of these Terms, you may not access or use our Website or Service.

Helium Health may change this Agreement at any time by posting an updated Terms of Service on this site. If any amendment to these Terms is unacceptable to you, you shall cease using this Website. If you continue using the Website or the Services, you will be constructively deemed to have accepted the changes.

In addition, certain areas of the Service may be subject to additional Terms of Service that we make available for your review. By using such areas, or any part thereof, you are expressly indicating that you have read and agree to be bound by the additional Terms of Service applicable to such areas. In the event that any of the additional Terms of Service governing such area conflict with these Terms, the additional terms will control.

**THIS WEBSITE AND THE SERVICES PROVIDED BY HELIUM HEALTH ARE NOT DESIGNED TO, AND DO NOT PROVIDE MEDICAL ADVICE, PROFESSIONAL MEDICAL DIAGNOSIS OR OPINION, MEDICAL TREATMENT, PSYCHOLOGICAL THERAPY OR MEDICAL SERVICES. PLEASE REVIEW OUR FULL MEDICAL DISCLAIMER IN SECTION 26.**

**PLEASE READ THE BINDING ARBITRATION CLAUSE AND CLASS ACTION WAIVER PROVISIONS IN THE DISPUTE RESOLUTION SECTION 31 OF THESE TERMS. IT AFFECTS HOW DISPUTES ARE RESOLVED. BY ENTERING INTO THIS AGREEMENT, YOU EXPRESSLY ACKNOWLEDGE THAT YOU UNDERSTAND THIS AGREEMENT, INCLUDING THE DISPUTE RESOLUTION, ARBITRATION PROVISIONS AND CLASS ACTION WAIVER AND ACCEPT ALL OF THE TERMS.**

**YOU MAY NOT USE OR ACCESS OUR PLATFORM IF YOU DO NOT AGREE TO BE BOUND BY THE TERMS AND CONDITIONS OF THIS AGREEMENT.**

## **1. Eligibility for Our Service**

By using our Services, you represent and warrant that you have attained the age of majority where you reside (18 years of age in most jurisdictions) and are otherwise capable of entering into binding contracts including this Agreement. If you are using our Services on behalf of another party including, without limitation, a healthcare facility, a healthcare provider, a medical professional, physician, patient or other organization, you represent and warrant that you have authority to act on behalf of that party and to bind that party to this Agreement. If you are using our Services on behalf of a party under the age of majority, you must be a parent or legal guardian and certify that you have the authority to use our Services on their behalf.

## **2. Our Service**

- a. Helium Health "Services" include the tools, features, functions and systems to provide a unified Electronic Health Record (EHR) technology platform for healthcare facilities, medical professionals, physicians and patients, allowing them to upload, store, retrieve and transmit health related information, and otherwise maintain a high-performance, digital based, healthcare information system.
- b. Health related information includes, without limitation, any data and information related to a patient's physical, mental and medical condition, health and treatment, including payment for such treatment.
- c. Helium Health is not a healthcare facility, healthcare provider, medical professional, physician or an employer of any medical professional or physician, and is not responsible in any way for the diagnosis, advice or treatment received by you.
- d. Access to our Service and all Helium Health files and functions is granted to you, your employees or agents, and your patients, upon the condition that (i) you become a registered user, and that, (ii) your employees or agents, and your patients accept and agree to these Terms of Service, our Privacy Policy and all Service Agreements when and where appropriate or required.
- e. You, at all times remain solely responsible for the use of the Service by your employees, agents and patients, and you agree to hold Helium Health harmless for any liability or the consequences to you or your employees, agents or patients, resulting from your, or their use of the Service.
- f. Any modifications and new features added to the Service are also subject to this Agreement.
- g. Helium Health reserves the right to modify or discontinue the Service or any feature or functionality thereof at any time without notice to you. All rights, title and interest in and to the Service and its components (including all software, technology, copyrights and other intellectual property rights) will remain with and belong exclusively to Helium Health.

### **3. Accounts and Registration**

- a. To access the features of our Service, you will be required to register for an account. When you register for an account, you will be required to provide us with some information about yourself (such as your name, date of birth, e-mail address, physical address, phone number, company name or other personal information). Some of this information may be of a confidential nature and may include personally identifiable information or "PII" (all "Your Information").
- b. If you provide Your Information to us then you agree to provide true, current, complete and accurate information, and not to misrepresent your identity. You also agree to keep Your Information current and to update Your Information if any of Your Information changes.
- c. Our collection, use and disclosure of Your Information is governed by this Agreement and our Privacy Policy which you may access here (<https://heliumhealth.com/privacy>). By using this Website and our Services you agree to the terms of our Privacy Policy.

### **4. Screening Users**

Although we retain the right to do so, Helium Health does not screen users or verify information communicated through the Service. Helium Health also retains the right to monitor all communication and information transmitted using our Services. Helium Health may, at its sole discretion, take steps to verify your identity and credentials as a health service provider at any time. You agree and authorize that we may use and disclose information, including personally identifiable information about you for such purposes, including making inquiry of third parties concerning your identity and professional and practice credentials. You further authorize such third parties to disclose to us such information as we may request for such purposes, and you agree to hold them and us harmless from any claim or liability arising from the request for or disclosure of such information. You agree that we may terminate your access to the Service at any time, without liability to us, if we are unable at any time to determine or verify your qualifications or credentials. You may contact us at [support@heliumhealth.com](mailto:support@heliumhealth.com) to notify us of inappropriate or illegal conduct or content you encounter on the Service.

### **5. Account Management**

- a. **Keep Your Password Secure.** If you have been issued an account by Helium Health in connection with your use of the Services, you are responsible for safeguarding your password and any other credentials used to access that account, even if you authorize other parties in your organization to access your account. You, and not Helium Health, are responsible for any activity occurring in your account, whether or not you authorized that activity. If you become aware of any unauthorized access to your account, you should notify Helium Health immediately. You will be solely responsible for the losses incurred by Helium Health and others (including patients) due to any unauthorized use of your account that takes place prior to notifying Helium Health that your account has been compromised.
- b. You acknowledge that by allowing your representatives, including your employees, agents and patients, to access your Helium Health account, you are responsible for ensuring such

representatives uses the Helium Health Service for the purposes for which it is intended and no other. While the Service has certain technical safeguards against misuse, you acknowledge the Service will rely to a substantial extent on your responsible use. You agree that we will not be responsible for any unlawful access to or use of the Service by any employee or patient to whom you gave access or log-in credentials and agree to hold Helium Health harmless for any liability or the consequences to you or your employees, agents or patients, resulting from your, or their use of the Service.

- c. Keep Your Details Accurate. Helium Health may send notices to the email address or text messages to your mobile phone registered with your account. You must keep your email address, mobile phone number and, where applicable, your contact details and payment details associated with your account current and accurate.
- d. We reserve the right to modify, suspend or terminate the Service, any user account or your access to the Service for any reason, without notice, at any time, and without liability to you.
- e. You can cancel your account at anytime. Upon termination or cancellation, all licenses and other rights granted to you in these Terms will immediately cease.
- f. We reserve the right to refuse to issue an account to anyone or permit access to the Service to anyone for any reason at any time.

## **6. Breach Notification Policy**

If you suspect or learn that the security of the Service and the data contained therein has been breached or compromised, you agree to immediately notify us at [support@heliumhealth.com](mailto:support@heliumhealth.com). You agree that user, and not Helium Health shall be responsible for the legal consequences for failing to comply with Helium Health's breach notification policy and you shall hold Helium Health free from any liability arising from such failure to provide notification following the breach or compromise of the Service data.

## **7. Exporting Information from the Service; Training and Compliance**

- a. Users are solely responsible for any applicable compliance with laws governing the privacy and security of personal data, including medical or other sensitive data. As a user of our Service, you acknowledge and agree that you are solely responsible for any health-related information exported from the Helium Health Service by you or, if you are a healthcare provider, the employees and patients that you allow access using your account. You represent and warrant that you will export and subsequently use protected health information only in accordance with the laws of the Federal Republic of Nigeria.
- b. If you are a healthcare facility, healthcare provider, you agree to train all employees on the use of the Helium Health Service and any health privacy obligations applicable to the Federal Republic of Nigeria, and the requirements of these Terms of Service and our Privacy Policy and ensure that they comply with such requirements.

## **8. Data Retention**

You are responsible for complying with all laws of Federal Republic of Nigeria related to retention of medical data and records, patient access and amendment to information, and patient authorization to release data.

## **9. Payment and Refund Policy**

- a. Helium Health offers several levels of Services to match the need of the user. On the date of your registration for our Service we will issue an invoice according to the level of Services agreed upon. Please contact us at support@heliumhealth.com for a description of the Service levels and their prices.
- b. Payment must be made within fourteen (14) days of issuance of the invoice. A failure to remit payment within this period of time could result in a suspension of Services until the required payment is completed.
- c. You agree that we may charge you, and you will pay to Helium Health, any fee or penalty that is assessed or charged to us for a dishonored check, draft or wire or a "Chargeback" resulting from a failure or refusal of your selected method of payment to make a required payment.
- d. All payments to Helium Health are final and not eligible for a refund.

## **10. Your License, Access and Use of our Services**

- a. During your registered use of our Services, and subject to these Terms of Use, Helium Health grants you, a limited, non-exclusive, revocable, non-sub-licensable, worldwide, license to access and use the Helium Health Services and the Helium Health Website Content solely for your professional use. Any other use is expressly prohibited. This license is revocable at any time without notice and with or without cause.
- b. Your right to access and use our Services is personal to you and is not transferable by you to any other person or entity. Access to our Services may not be available in all locations. You are only entitled to access and use our Services for lawful purposes and pursuant to the terms and conditions of this Agreement and our Privacy Policy. Any action by you that, in our sole discretion: (i) violates the terms and conditions of this Agreement and/or the Privacy Policy; (ii) restricts, inhibits or prevents any access, use or enjoyment of our Services; or (iii) through the use of our Services, defames, abuses, harasses, offends or threatens others, shall not be permitted, and may result in your loss of the right to access and use our Services.
- c. The rights granted to you in these Terms are subject to the following restrictions: (i) you shall not copy, publish, distribute, license, sell, rent, lease, transfer, assign, host, or otherwise commercially exploit the Services; (ii) you shall not modify, make derivative works of, disassemble, reverse compile or reverse engineer any part of the Services; (iii) you shall not access the Services in order to build a similar or competitive Service; and (iv) except as expressly stated herein, no part of the Services may be copied, reproduced, distributed, republished, downloaded, displayed, posted or transmitted in any form or by any means. Any future release, update, or other addition to functionality of the Services shall be subject to these Terms.

- d. Furthermore, you agree that you will not use any robot, spider, scraper, deep link or other similar automated data gathering or extraction tools, program, algorithm or methodology to access, acquire, copy or monitor our Services or any portion of our Services or for any other purpose, without our prior written permission. Additionally, you agree that you will not: (i) take any action that imposes, or may impose in our sole discretion an unreasonable or disproportionately large load on our infrastructure; (ii) copy, reproduce, modify, create derivative works from, distribute or publicly display any content (except for your personal information) from our Services without our prior written permission and the appropriate third party, as applicable; (iii) interfere or attempt to interfere with the proper working of our Services or any activities conducted on our Services; (iv) bypass any robot exclusion headers or other measures we may use to prevent or restrict access to our Services, or (v) interfere or disrupt the Service or servers or networks connected to the Service, including by transmitting any worms, viruses, spyware, malware or any other code of a destructive or disruptive nature.
- e. Except as expressly permitted in this Agreement, you shall not collect or harvest any personally identifiable information, including account names, from our Services.
- f. Our Services may now, or in the future, have "publicly accessible areas" that allow users to post User Content (hereafter defined) that will be accessible by the public or the user population generally. As a user of the Services, you acknowledge and affirmatively agree that in the course of using the Services you may be exposed to User Content that might be offensive, harmful, inaccurate or otherwise inappropriate. You further agree that Helium Health shall not, under any circumstances, be liable in any way for any User Content.
- g. Your use of the Service may cause you to incur fees charged for data usage by your mobile network carrier, or cause you to be subject to third party terms and conditions or incur third party fees, and such fees and/or third party terms and conditions are your sole responsibility.
- h. You understand that Helium Health may issue upgrade versions of any software and you consent to receiving automatic upgrades on your computer or mobile device. You also acknowledge and agree that standard carrier data charges may apply to your use of the Service.
- i. Helium Health strives to ensure that clients are served with the latest technologies for security, performance and other purposes and as such reserves the right to upgrade the software at any time. You understand that if you are operating the cloud version or on-premise version of the software, you must accept and install the upgraded version, as failure to do so may result in the withdrawal by Helium Health of its support and maintenance services, subject to the Helium Health's decision on a case by case basis.
- j. You shall not use any communication systems provided on our Services including, without limitation email, for any commercial or solicitation purposes. You shall not solicit for commercial purposes any users of our Services without our prior written permission.
- k. You understand and agree that you are solely responsible for compliance with any and all laws, rules, regulations, and Tax obligations that may apply to your purchases or use of the Services.

## **11. Suspension and Termination of Services**

- a. Helium Health may limit or suspend or terminate the Services to you if you fail to comply with these Terms, the Privacy Policy or if you use the Services in a way that causes legal liability to us or disrupts use of the Service by other users.
- b. Helium Health may also suspend providing the Services to you if we are investigating suspected misconduct by you. Helium Health will use commercially reasonable efforts to narrow the scope and duration of any limitation or suspension under this Section as is needed to resolve the issue that prompted such action.
- c. Users who have been terminated or suspended will not be eligible for a refund of any kind for the termination or the period of suspension.

## **12. Information Accuracy**

- a. We attempt to ensure that information on this Service is complete, accurate and current. Despite our best efforts, the information on our Service may occasionally be inaccurate, incomplete or out of date. We make no representation as to the completeness, accuracy, or currency of any information on the Service.
- b. Furthermore, information on the Service may contain typographical errors, inaccuracies, or omissions. We reserve the right to correct or make changes in such information without notice.

## **13. Proprietary Rights**

As between Helium Health and you, Helium Health or its licensors own and reserve all right, title and interest in and to the Service and all hardware, software and other items used to provide the Service, other than the rights explicitly granted to you to use the Service in accordance with these Terms. No title to or ownership of any proprietary rights related to the Service is transferred to you pursuant to these Terms. All rights not explicitly granted to you are reserved by Helium Health.

## **14. Intellectual Property Rights**

- a. All software used on, or within our Services is our property or the property of our software vendors and is protected by appropriate jurisdictional copyright laws. Listening, viewing, reading, printing, downloading or otherwise using Our Content and/or the Collective Work does not entitle you to any ownership or intellectual property rights to Our Content, the Collective Work, or the Software.
- b. Our names, graphics, videos, logos, page headers, button icons, scripts, and service names are our trademarks or trade dress in Nigeria and/or other countries (collectively the "Proprietary Marks"), and are owned by Helium Health. You may not use the Proprietary Marks without our prior written permission.
- c. We make no proprietary claim to any third-party names, trademarks or service marks appearing on our Services. Any third-party names, trademarks, and service marks are property of their respective owners.
- d. The information, content, documentation, guides, descriptions, advice, data, software and any other content viewable on, contained in, or downloadable from our Services (collectively, "Our Content"), including, without limitation, all audio files, text, graphics,

charts, pictures, photographs, images, videos, line art, icons and renditions, are copyrighted by, or otherwise licensed to us, or Our Content suppliers.

- e. We also own a copyright of a collective work in the selection, coordination, arrangement, presentation, display and enhancement of Our Content (the "Collective Work").
- f. You are solely responsible for any damages resulting from your infringement of our, or any third-parties, intellectual property rights regarding the Trademarks, Our Content, the Collective Work, the Software and/or any other harm incurred by us or our affiliates as a, direct or indirect, result of your copying, distributing, redistributing, transmitting, publishing or using the same for purposes that are contrary to the terms and conditions of this Agreement.

## **15. Use of Our Content**

- a. We grant you a limited license to access, print, download or otherwise make personal use of Our Content and the Collective Work for your noncommercial personal use provided, however, that you shall not delete any proprietary notices or materials with regard to the foregoing.
- b. You may not modify Our Content or the Collective Work or utilize them for any commercial purpose or any other public display, performance, sale, or rental, decompile, reverse engineer, or disassemble Our Content and the Collective Work, or transfer Our Content or the Collective Work to another person or entity.

## **16. User Content Rights and Related Responsibilities; License**

- a. "User Content" means, without limitation, any messages, texts, digital files, images, photos, personal profile, artwork, videos, audio, comments, feedback, suggestions and documents, or any other content you upload, transmit or otherwise make available to Helium Health and its users via the Services. You represent and warrant that you own or otherwise control the rights to your User Content and that each and every part thereof, is an original work by you, or you have obtained all rights, licenses, consents and permissions necessary in order to use those parts at any and all times. You further agree to indemnify Helium Health and its affiliates for all claims arising from or in connection with any claims to any rights in your User Content or any damages arising from your User Content.
- b. By submitting User Content on or through the Service, you grant Helium Health a perpetual, worldwide, non-exclusive, royalty-free license (with the right to sublicense) to use, re-use, reproduce, transmit, print, publish, display, exhibit, distribute, re-distribute, copy, host, store, cache, archive, index, categorize, comment on, broadcast, stream, download, edit, alter, modify, adapt, translate, create derivative works based upon and publicly perform such User Content without attribution, and without the requirement of any permission from or payment to you or to any other person or entity, in any manner including, without limitation, for commercial, publicity, trade, marketing, promotional, or advertising purposes, and in any and all media now known or hereafter devised.
- c. In order for us to provide the Service to you, we require that you grant us certain rights with respect to User Content, including the ability to transmit, manipulate, process, store and copy User Content in order to provide our Services. Your acceptance of this



Agreement gives us the permission to do so and grants us any such rights necessary to provide the Service to you.

- d. Helium Health expressly disclaims any liability for the loss or damage to any User Content or any losses or damages you incur as a result of the loss or damage of any User Content. It is your responsibility to back-up any User Content to prevent its loss.
- e. You are solely responsible for your User Content, including, without limitation, comments and feedback, and any damages suffered by Helium Health resulting therefrom.
- f. Helium Health may block, remove or return any User Content at any time for any reason whatsoever, or for no reason at all. We are not responsible for the authenticity, accuracy, completeness, appropriateness, or legality of User Content.
- g. You represent and warrant that all information that you submit is authentic, accurate and truthful and that you will promptly update any information provided by you that subsequently becomes inaccurate, misleading or false.
- h. User warrants and agrees not to: (i) publish falsehoods or misrepresentations that could cause injury, loss or damage to Helium Health or any third party; (ii) submit material that is unlawful, obscene, lewd, defamatory, libelous, threatening, pornographic, harassing, hateful, racially or ethnically offensive, violent, or encourages conduct that would be considered a criminal offense, give rise to civil liability, violate any law, or is otherwise inappropriate or objectionable; (iii) post advertisements or solicitations of business; (iv) impersonate another person; or (v) submit material that is copyrighted, protected by trade secret or otherwise subject to third party intellectual property or proprietary rights, including privacy and publicity rights, unless you are the owner of such rights or have permission from their rightful owner to post the material and to grant Helium Health all of the license rights granted herein.
- i. Helium Health reserves the right to decide whether a user's submission is inappropriate or violates this Agreement, Helium Health reserves the right, in its sole discretion, to reject, refuse to post or remove any posting (including private messages and user submissions) by user, or to restrict, suspend or terminate user's access to all or any part of the Site or the Service at any time, for any or no reason, with or without prior notice.
- j. Notwithstanding the foregoing, Helium Health assumes no responsibility for monitoring the Service for inappropriate content, or modifying or removing such content from the Service.

## **17. Interruption of Service**

- a. Your access and use of our Services may be interrupted from time to time for any of several reasons, including, without limitation, the malfunction of equipment, periodic updating, maintenance or repair of our Services or other actions that we, in our sole discretion, may elect to take.
- b. You agree that we will not be liable to you or to any third party for any interruption of the Services or any part thereof.

## **18. Third Party Links, Services and Content**

The Service may contain features, services and functionalities linking you to, or providing you with access to third party services and content, websites, directories, servers, networks, systems, information, databases, applications, software, programs, courses, services, and the Internet as a

whole. Because we have no control over such sites and resources, we are not responsible for the availability of such external sites or resources, and do not endorse and are not responsible or liable for any content, advertising, courses or other materials on or available from such sites or resources. When you visit or use a third party's website you agree to read and consent to the third party's Terms of Service and Privacy Policy and you release us from any liability.

## **19. Software**

- a. If you receive software from us, its use is governed in one of two ways: If you're presented with license terms that you must accept in order to use the software, those terms apply; if no license is presented to you, these Terms apply. We reserve all other rights to the software.
- b. Any license is for the sole purpose of enabling you to use and enjoy the benefit of the Services as provided by Helium Health, in the manner permitted by these terms. You may not copy, modify, distribute, sell, or lease any part of our Services or included software, nor may you reverse engineer or attempt to extract the source code of that software.
- c. We may automatically check your version of the software. We may also automatically download to your device or computer new versions of the software.
- d. Any software is licensed, not sold. Unless we notify you otherwise, the software license ends when your Service ends. You must then promptly uninstall the software, or we may disable it. You must not work around any technical limitations in the software.
- e. The software is subject to applicable export laws and regulations. You must comply with all domestic and international export laws and regulations that apply to the software.

## **20. Electronic Communications**

- a. Although we may choose to communicate with you by regular mail, we may also choose to communicate with you by electronic means including, without limitation, email, telephone, text, SMS or by posting notices on our Services. When you use our Services, you consent to communicating with us electronically.
- b. You agree that all agreements, notices, disclosures and other communications that we provide to you electronically satisfy any legal requirement that such communications be in writing.
- c. If we learn of a security system's breach, we may attempt to notify you electronically by posting a notice on the Helium Health Service or sending an email to you. You may have a legal right to receive this notice in writing. To receive free written notice of a security breach (or to withdraw your consent from receiving electronic notice), please contact us at [support@heliumhealth.com](mailto:support@heliumhealth.com).

## **21. Security**

Violating the security of our Services is prohibited and may result in criminal and civil liability. Helium Health may investigate incidents involving such violations and may involve, and will cooperate with law, enforcement if a criminal violation is suspected. Security violations include, without limitation, unauthorized access to or use of data or systems including any attempt to probe, scan, or test the vulnerability of the Service or to breach security or authentication measures, unauthorized monitoring of data or traffic and interference with service to any user, host, or network.

## **22. Privacy and Your Personal Information**

For information about the Helium Health data protection practices and privacy policies, please read our Privacy Policy where you accessed these Terms of Service or here (<https://heliumhealth.com/privacy>). This policy explains how we treat your personal information, and protect your privacy when you use the Services. You agree to the use of your data in accordance with Helium Health Privacy Policy.

## **23. User Representations and Warranties**

User affirms, represents, and warrants that (i) user owns or has the necessary licenses, rights, consents, and permissions to use, and authorize Helium Health to use, each and all information, including entries and clinical, social and contact information contained in each such user submissions, and to enable inclusion and use of such user submissions in the manner contemplated by the Service and this Agreement; (ii) user has the written consent, release, and/or permission of each and every identifiable individual person in the user submissions to use the name or likeness of each and every such identifiable individual person to enable inclusion and use of the user submissions in the manner contemplated by the Service and this Agreement; and (iii) the posting/publishing of user submissions on or through the Service or otherwise does not violate the privacy rights, publicity rights, intellectual property rights, contract rights, or any other rights of any person or entity.

## **24. Disclaimers; No Warranties**

- a. **ALL SERVICES AND PRODUCTS AVAILABLE FROM HELIUM HEALTH ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS. TO THE FULL EXTENT PERMISSIBLE BY APPLICABLE LAW, HELIUM HEALTH AND ITS PARENTS, SUBSIDIARIES, PARTNERS, AFFILIATES, OFFICERS, DIRECTORS, EMPLOYEES AND AGENTS, (COLLECTIVELY, THE "HELIUM HEALTH PARTIES") DISCLAIM ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT.**
- b. **WITHOUT LIMITING THE FOREGOING, WE MAKE NO WARRANTY THAT (I) THE SERVICES OR PRODUCTS WILL MEET YOUR REQUIREMENTS, (II) THE SERVICES WILL BE UNINTERRUPTED, TIMELY, SECURE, OR ERROR-FREE, OR (III) THE QUALITY OF ANY SERVICES, PRODUCTS OR INFORMATION PURCHASED OR OBTAINED BY YOU FROM OR THROUGH US WILL MEET YOUR EXPECTATIONS.**
- c. **THE SERVICES CAN INCLUDE TECHNICAL OR OTHER MISTAKES, INACCURACIES OR TYPOGRAPHICAL ERRORS. FURTHERMORE, THE INFORMATION OR SERVICES ON THIS WEBSITE MAY BE OUT OF DATE. WE MAY MAKE CHANGES TO THE SERVICES, PRODUCTS AND**

INFORMATION ON THIS WEBSITE, INCLUDING THE PRICES AND DESCRIPTIONS OF ANY SERVICES OR PRODUCTS LISTED HEREIN AT ANY TIME WITHOUT NOTICE, HOWEVER WE HAVE NO OBLIGATION TO DO SO.

- d. THE HELIUM HEALTH PARTIES DO NOT WARRANT THAT THE SERVICES OR THE SERVERS THAT MAKE THE SERVICE AVAILABLE WILL BE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS, OR THAT ANY PRODUCT DESCRIPTION OR OTHER CONTENT OFFERED AS PART OF THE SERVICES, ARE ACCURATE, RELIABLE, CURRENT OR COMPLETE.
- e. YOU EXPRESSLY AGREE THAT YOUR USE OF THE SERVICE IS AT YOUR SOLE RISK. IF YOU DOWNLOAD ANY CONTENT FROM THE SERVICE, YOU DO SO AT YOUR OWN DISCRETION AND RISK. YOU WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO YOUR COMPUTER SYSTEM OR LOSS OF DATA THAT RESULTS FROM THE DOWNLOAD OF ANY CONTENT THROUGH THE SERVICE.
- f. WE RESERVE THE RIGHT TO RESTRICT OR TERMINATE YOUR ACCESS TO THE SERVICE OR ANY FEATURE OR PART THEREOF AT ANY TIME.
- g. SOME JURISDICTIONS LAWS DO NOT ALLOW THE EXCLUSION OF IMPLIED WARRANTIES, SO SOME PARTS OF THE ABOVE EXCLUSIONS MAY NOT APPLY TO YOU.

## **25. LIMITATION OF LIABILITY**

- a. IN NO EVENT SHALL THE "HELIUM HEALTH PARTIES" BE RESPONSIBLE TO, OR LIABLE TO YOU, YOUR PATIENTS OR ANY THIRD PARTY, WHETHER IN CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, FOR ANY DAMAGES INCLUDING, BUT NOT LIMITED TO, SPECIAL, INCIDENTAL, INDIRECT OR CONSEQUENTIAL DAMAGES THAT INCLUDE, BUT ARE NOT LIMITED TO, DAMAGES FOR ANY PERSONAL INJURY TO YOU, YOUR PATIENTS OR OTHERS, OR LOSS OF PROFIT, REVENUE OR BUSINESS, AS A DIRECT OR INDIRECT RESULT OF: (I) YOUR ACCESS AND USE OF OUR SERVICES AND PRODUCTS; (II) YOUR BREACH OR VIOLATION OF THE TERMS AND CONDITIONS OF THIS AGREEMENT; (III) YOUR DELAY IN ACCESSING OR INABILITY TO ACCESS OR USE OUR SERVICES FOR ANY REASON; (IV) YOUR DOWNLOADING OF ANY OF OUR CONTENT OR THE COLLECTIVE WORK FOR YOUR USE; OR (V) YOUR RELIANCE UPON OR USE OF OUR CONTENT OR THE COLLECTIVE WORK, WHETHER RESULTING IN WHOLE OR IN PART, FROM BREACH OF CONTRACT, TORTIOUS BEHAVIOR, NEGLIGENCE, STRICT LIABILITY OR OTHERWISE, EVEN IF WE AND/OR OUR SUPPLIERS HAD BEEN ADVISED OF THE POSSIBILITY OF DAMAGES.
- b. THIS LIMITATION SHALL ALSO APPLY WITH RESPECT TO DAMAGES INCURRED BY REASON OF OTHER SERVICES OR PRODUCTS RECEIVED THROUGH OR ADVERTISED IN OUR SERVICES OR RECEIVED THROUGH ANY LINKS PROVIDED IN OUR SERVICES.
- c. WITHOUT LIMITING THE FOREGOING, UNDER NO CIRCUMSTANCES SHALL WE BE HELD LIABLE FOR ANY DELAY OR FAILURE IN PERFORMANCE RESULTING DIRECTLY OR INDIRECTLY FROM ACTS OF NATURE, FORCES, OR CAUSES BEYOND THEIR REASONABLE CONTROL, INCLUDING, WITHOUT LIMITATION, INTERNET FAILURES, COMPUTER EQUIPMENT FAILURES, TELECOMMUNICATION EQUIPMENT FAILURES, OTHER EQUIPMENT FAILURES, ELECTRICAL POWER FAILURES, STRIKES, LABOR DISPUTES, RIOTS, INSURRECTIONS, CIVIL DISTURBANCES, SHORTAGES OF LABOR OR MATERIALS, FIRES, FLOODS, STORMS, EXPLOSIONS, ACTS OF GOD, WAR, GOVERNMENTAL ACTIONS, ORDERS OF DOMESTIC OR FOREIGN COURTS OR TRIBUNALS OR NON-PERFORMANCE OF THIRD PARTIES.
- d. OUR LIABILITY AND THE LIABILITY OF OUR AFFILIATES, DIRECTORS, OFFICERS, EMPLOYEES, INDEPENDENT CONTRACTORS, SHAREHOLDERS, REPRESENTATIVES, AND AGENTS ARISING OUT OF THIS AGREEMENT SHALL NOT EXCEED THE AMOUNT OF \$100 IN THE AGGREGATE FOR ALL CLAIMS.
- e. YOU AND WE AGREE THAT ANY CAUSE OF ACTION ARISING OUT OF OR RELATED TO OUR SERVICES MUST COMMENCE WITHIN ONE (1) YEAR AFTER THE CAUSE OF ACTION ACCRUES, OTHERWISE, SUCH CAUSE OF ACTION IS PERMANENTLY BARRED.

- f. CERTAIN JURISDICTIONAL LAWS DO NOT ALLOW LIMITATIONS ON IMPLIED WARRANTIES OR THE EXCLUSION OR LIMITATION OF CERTAIN DAMAGES. IF THESE LAWS APPLY TO YOU, SOME OR ALL OF THE ABOVE DISCLAIMERS, EXCLUSIONS OR LIMITATIONS MAY NOT APPLY TO YOU.

## **26. Medical Disclaimer**

THIS WEBSITE AND THE SERVICES PROVIDED BY HELIUM HEALTH ARE NOT DESIGNED TO, AND DO NOT PROVIDE MEDICAL ADVICE, PROFESSIONAL MEDICAL DIAGNOSIS OR OPINION, MEDICAL TREATMENT, PSYCHOLOGICAL THERAPY OR MEDICAL SERVICES. YOUR USE OF OUR SERVICES DOES NOT CREATE A PATIENT/PHYSICIAN RELATIONSHIP AND IS NOT A SUBSTITUTE FOR PROFESSIONAL MEDICAL ADVICE, DIAGNOSIS OR TREATMENT BY A PHYSICIAN OR OTHER HEALTHCARE PROVIDER. IF YOU BELIEVE YOU ARE CONFRONTED WITH ANY HEALTH PROBLEM OR MEDICAL CONDITION, YOU SHOULD PROMPTLY CONSULT YOUR PHYSICIAN OR OTHER HEALTHCARE PROVIDER. NEVER DISREGARD MEDICAL OR PROFESSIONAL ADVICE, OR DELAY SEEKING IT, BECAUSE OF INFORMATION YOU HAVE RECEIVED THROUGH OUR SERVICES. IF YOU ARE PRESENTED WITH A MEDICAL EMERGENCY YOU SHOULD IMMEDIATELY CALL FOR EMERGENCY MEDICAL ASSISTANCE OR YOUR PHYSICIAN.

## **27. Indemnity**

- a. You agree that you will be personally responsible for your use of the Service and products you purchase from us; and you further agree to defend, indemnify and hold harmless Helium Health and its officers, directors, employees, consultants, affiliates, subsidiaries and agents from and against any and all claims, liabilities, damages, losses and expenses, including reasonable attorneys' and accounting fees and costs, arising out of or in any way connected with (i) your access to, use of or alleged use of the Service or the products you purchase through the Service; (ii) your violation of these Terms of Service or any representation, warranty, or agreements referenced herein, or any applicable law or regulation; (iii) your infringement upon the property rights, intellectual property rights (copyrights and trademarks) or other rights of others; (iv) your violation of any third party right, including without limitation publicity, confidentiality, or privacy right; (v) any death, or serious physical or serious emotional harm, to you or any third party resulting from your use of the Services or products purchased through the Service.
- b. We reserve the right, at our own expense, 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.

## **28. Release**

By using the Services, you release, to the maximum extent allowed by law, Helium Health, its officers, directors, employees, affiliates, and agents from claims, demands and damages of every kind and nature, known and unknown, suspected and unsuspected, disclosed and undisclosed, arising out of, or in any way connected with, your use of our Services or products, including without limitation, any death or serious emotional or serious physical harm.

## **29. Governing Law**

This Agreement, and any additional separate agreements whereby we provide you Services, shall be governed by and construed in accordance with the laws of the Federal Republic of Nigeria, without regard to its conflicts of laws principles.

### **30. Our Remedies; Equitable Relief**

You acknowledge that we may be irreparably damaged if this Agreement is not specifically enforced, and damages at law would be an inadequate remedy. Therefore, in the event of a breach or threatened breach of any provision of this Agreement by you, we shall be entitled, in addition to all rights and remedies, to an Equitable Relief including an injunction restraining such breach or threatened breach, without being required to show any actual damage or to post an injunction bond, and/or to a decree for specific performance of the provisions of this Agreement.

### **31. Dispute Resolution**

**THIS AGREEMENT CONTAINS AN AGREEMENT TO ARBITRATE, WHICH WILL, WITH LIMITED EXCEPTION, REQUIRE YOU TO SUBMIT CLAIMS YOU HAVE AGAINST US TO BINDING AND FINAL ARBITRATION. THIS AGREEMENT ALSO CONTAINS AN AGREEMENT THAT YOU WILL ONLY BE PERMITTED TO PURSUE CLAIMS AGAINST US ON AN INDIVIDUAL BASIS, NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY CLASS OR REPRESENTATIVE ACTION OR PROCEEDING. PLEASE READ THE FOLLOWING TERMS CAREFULLY BEFORE ACCESSING OR USING ANY OF THE SERVICE. EACH TIME YOU ACCESS OR USE THE SERVICE, YOU AGREE TO BE BOUND BY THESE TERMS. IF YOU DO NOT AGREE TO BE BOUND BY THE MANDATORY ARBITRATION PROVISION AND THE CLASS ACTION WAIVER YOU MAY NOT ACCESS OR USE THE SERVICE.**

- a. Arbitration. For any dispute you have with Helium Health, you agree to first contact us at support@heliumhealth.com and attempt to resolve the dispute with us informally. We'll try to resolve the dispute informally by contacting you via email. If a dispute is not resolved within fifteen (15) days of submission, you or Helium Health may initiate a binding arbitration proceeding. Any dispute or claim that arises out of, or in connection with, this Agreement including a dispute related to its existence, validity, or termination of this Agreement, or the consequences of its nullity, or any non-contractual disputes or claims shall be referred to and finally settled by arbitration in accordance with the provisions of Nigeria law pursuant to the Arbitration and Conciliation Act Cap A18 Laws of the Federation of Nigeria 2004, as amended, replaced or re-enacted from time to time. The total number of arbitrators shall be three (one appointed by each of the parties and the third appointed by the first two arbitrators). In the event that either of the Parties fails or refuses to appoint an arbitrator within a period of twenty (20) Business Days after the appointment of an arbitrator by the other Party, the second arbitrator shall be appointed by the President of the Chartered Institute of Arbitrators UK, Nigeria branch. In the event that the two (2) arbitrators are unable to agree on the appointment of the third arbitrator, the third arbitrator shall be appointed by the President of the Chartered Institute of Arbitrators UK, Nigeria branch. The seat of arbitration shall be Lagos, Nigeria, all hearings shall take place in Lagos, Nigeria and the language of arbitration shall be English.
- b. Prohibition of Class and Representative Actions and Non-Individualized Relief. You and we agree that each of us 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 we 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). Any relief awarded cannot affect our other users.

### **32. Law Enforcement**

Helium Health is committed to cooperating with law enforcement while respecting each individual's right to privacy. If Helium Health receives a request for user account information from a government agency investigating criminal activity, we will review the request to be certain that it satisfies all legal requirements before releasing information to the requesting agency.

### **33. Amendments to this Agreement**

We reserve the right to update, amend and/or change this Agreement at any time in our sole discretion and without notice. Updates to this Agreement will be posted here. Amendments will take effect immediately upon us posting the updated Agreement on our Services. You are encouraged to revisit this Agreement from time to time in order to review any changes that have been made. The date on which this Agreement was last updated will be noted immediately below this Agreement. Your continued access and use of our Services following the posting of any such changes shall automatically be deemed your acceptance of all changes.

### **34. Severability**

If any portion of this Agreement is deemed unlawful, void or unenforceable by any arbitrator or court of competent jurisdiction, this Agreement as a whole shall not be deemed unlawful, void or unenforceable, but only that portion of this Agreement that is unlawful, void or unenforceable shall be stricken from this Agreement.

### **35. No Waiver**

Our failure to enforce any right or provision in these Terms shall not constitute a waiver of such right or provision unless acknowledged and agreed to by us in writing.

### **36. Entire Understanding**

This Agreement and the Privacy Policy represent the entire understanding and agreement between you and us regarding the subject matter of the same, and supersede all other previous agreements, understandings and/or representations regarding the same.

If you have questions, comments, concerns or feedback regarding this Agreement or our Services, please contact us at [support@heliumhealth.com](mailto:support@heliumhealth.com)

**Last updated: July 12, 2019**