

**Rev. 12-12-19**

## **ChiroUp.com Terms of Use and Waiver (“Agreement”)**

Please read these Terms of Use and Waiver Agreement completely. This Agreement documents the legally binding terms and conditions attached to the use of the websites ChiroUp.com and HealthCom.io. All references to “the website” or “the websites” mean ChiroUp.com and HealthCom.io. All references to “ChiroUp.com” mean both ChiroUp.com and ChiroUp.com d/b/a HealthCom.io.

### **1. General Terms**

By accessing this website, regardless of whether you are a subscribing member, you are agreeing to be bound by these website Terms of Use and Waiver, all applicable laws and regulations, and agree that you are responsible for compliance with any applicable local laws. If you do not agree with any of these terms, you are prohibited from accessing or in any way using this site.

### **2. Additional Terms of Subscription**

ChiroUp.com may offer a 14 day “free trial” of the product. ChiroUp.com “free trial” subscribing members who are not fully satisfied with the product may cancel within 14 days of initial subscription and will not be billed for membership. However, members who cancel within 14 days of initial subscription, “including those who are participating in a free trial”, will remain bound by all other applicable Terms of Use, (as are all canceled members), including but not limited to the prohibition against the use of ChiroUp.com forms or other resources of any kind following the member’s cancellation. After the initial 14 day “free trial” period, ChiroUp.com subscribing members who agree to a minimum one-month initial paid subscription will be billed and agree to pay monthly (or as designated at sign-up) as a condition of membership and full access to the website. Monthly subscription fees that have already been received by ChiroUp will not be refunded, but billing for future months will cease upon notification of a member's intent to cancel. Membership will automatically transfer to a monthly subscription, after the initial one-month subscription, unless the member notifies ChiroUp.com of his or her intent to cancel, in writing. Cancellation requests must be delivered to ChiroUp via email ([support@ChiroUp.com](mailto:support@ChiroUp.com)) or certified mail. ChiroUp is not responsible for cancellation requests submitted via any other means including but not limited to verbal, phone, chat wizard, message box, etc. Upon cancellation, members and their patients will not have access to ChiroUp.com or HealthCom.io, or any affiliated resources. ChiroUp.com subscriptions may not be transferred at any time. ChiroUp.com subscribing members agree, in the event of a service interruption to the website due solely to the negligence of the website and lasting 24 hours or longer, and only in such event, fees will be prorated. ChiroUp.com subscribing members agree that their access to and use of the website may be terminated without prior notice in ChiroUp.com’s sole discretion for the member’s failure to pay subscription fees or any portion thereof. Any member or non-member’s access to or use of the site may be denied or terminated for any other breach of these Terms of Use or at the sole discretion of ChiroUp.com.

User acknowledges that in using the website and material, ChiroUp.com may use automatic means (including, for example, cookies and web beacons) to collect information about a user's use of the website and materials. A user may also be required to provide certain information about oneself as a condition to using the website or certain of its features or functionality, and the website may provide you with opportunities to share information about yourself with others. All information collected by ChiroUp.com through or in connection with this website is subject to the ChiroUp.com Privacy Policy. By downloading, installing, using, and providing information to or through this website, the member consents to all actions taken by ChiroUp.com with respect to the member's information in compliance with the [Privacy Policy](#).

### **3. Intellectual Property Rights**

The websites and all of their original content are the sole property of ChiroUp.com and are, as such, fully protected by any and all applicable national and international copyright and other intellectual property rights laws. Permission is granted to ChiroUp subscribing members to use materials on the site for non-commercial purposes, including treatment of patients and patient education. Permission is also granted to ChiroUp.com subscribing members to use materials on the site for practice management purposes pertaining to the subscribing member's own practice, including marketing of the member's practice and the preparation of forms and manuals for the practice. This is the grant of a license, not a transfer of title, and under this license you may not, without express, prior written permission from ChiroUp.com: modify or copy the materials; use the materials for any other commercial purpose, or for any public display (commercial or non-commercial); reverse engineer, disassemble, decompile, decode, or otherwise attempt to derive or gain access to the source code of the website or any part thereof; remove, disable, circumvent, or otherwise create or implement any workaround to any copy protection, rights management, or security features in or protecting the website; remove any copyright or other proprietary notations from the materials or any copies thereof; sell the materials; or "mirror" the materials on any other server or in any hard copy format other than as described herein. ChiroUp.com deems this Agreement to constitute written permission to allow ChiroUp.com subscriber providers to provide copies of website information to patients for purposes of demonstration, education and assistance, conditioned on the patient's agreement to abide by the Terms of Use and Waiver under this Agreement. The license for use may automatically terminate if you violate any of these restrictions and may be terminated by ChiroUp.com at any time. ChiroUp.com members agree that they will use ChiroUp.com's proprietary materials only during the time they are members, and that they will immediately cease and desist the use of ChiroUp.com proprietary materials when their membership terminates. Upon terminating your viewing of these materials or upon the termination of this license, you agree to destroy any downloaded materials in your possession whether in electronic or printed format. ChiroUp.com reserves and shall retain its entire right, title, and interest in and to the website and materials, including all copyrights, trademarks, and other intellectual property rights therein or relating thereto, except as expressly granted to a user under this Agreement.

### **4. Compliance With Law; Chat Room**

All users agree, whether or not they are subscriber members, to comply with all state, federal and local laws, including, but not limited to, antitrust laws. Users will not post comments encouraging price fixing, boycotts or any unfair trade practice of any kind. Users agree to use good judgment by posting only respectful, constructive comments. Users agree that the websites cannot monitor all comments at all times and are not responsible for the statements of third parties. Users agree and acknowledge that the websites may remove, without prior notice and in their sole discretion, any posts they deem to be inappropriate. Users agree to release and waive any intellectual property claim, including copyright infringement, arising from the Users' posting of material to the site. Users also acknowledge and agree that chiropractic scope of practice laws vary from state to state. The websites, by making information available, make no representations whatsoever regarding scope of practice, nor do the websites assume any responsibility or liability for providers' practicing within the scope of practice for their particular state.

#### **5. Disclosure of Protected Health Information; Patient Authorization and HIPAA Business Associate Agreement**

Users acknowledge and understand that ChiroUp.com provides optional services that may involve Users' disclosure of certain patient Protected Health Information (PHI) to the ChiroUp.com and/or HealthCom.io site. Users also acknowledge and understand that ChiroUp.com may contact and survey patients via e-mail after the conclusion of treatment (see paragraph 6 below regarding "Outcome Tracker"). Users agree that they will notify patients that User may disclose patient PHI and email addresses to ChiroUp.com for these purposes. Users agree to obtain valid, signed patient authorizations to release such PHI and email information to the websites from patients for whom Users disclose PHI to the websites. Such patient releases shall comply with all state and federal laws pertaining to patient confidentiality, including but not limited to the Health Insurance Portability and Accountability Act (HIPAA) and rules. As the recipient of PHI, ChiroUp.com agrees to execute a valid Business Associate Agreement with each User who discloses PHI. However, ChiroUp.com and HealthCom.io assume no liability or responsibility for Users' compliance with HIPAA laws and rules, or Users' compliance with any other laws and rules pertaining to patient confidentiality. Users of either or both sites agree that they fully release, waive and indemnify the sites from any and all claims against the sites for any claim arising from Users' disclosure of PHI to the sites.

Users will have the opportunity to enter a patient's email address and/or phone number to deliver reports that contain PHI. It is the user's sole responsibility to ensure the accuracy of those entries, as entry of misinformation could result in exposure of PHI to unintended recipients. Users also have the ability to upload and deliver customized documents into the ChiroUp platform. Users acknowledge and understand that they should not upload any personal documents that contain PHI.

#### **6. Outcome Tracker**

Subscriber members acknowledge and authorize ChiroUp.com to include such members in the Outcome Tracker function, as follows: ChiroUp.com is authorized to survey Subscriber members' patients to obtain ratings on improvement, satisfaction with service and other variables. Based on

patient responses, ChiroUp.com may provide ChiroUp subscriber doctors with reports rating the Subscriber doctors' efficacy in treating various conditions. ChiroUp.com also may ask Subscriber member doctors who are successful in treating certain conditions to voluntarily provide ChiroUp.com with information regarding treatment protocols, and ChiroUp.com may use such information to modify ChiroUp.com's general recommendations for treatment of certain conditions. ChiroUp.com may also ask patients if they wish to voluntarily share their experiences on outside websites. ChiroUp can not guarantee that patients will elect to utilize this web ratings feature and makes no claim that the subscriber will receive web reviews. ChiroUp.com will not share any patient protected health information with any party or entity other than the patient's Subscriber member doctor. ChiroUp.com subscribers may opt out of the Outcome Tracker program at any time by selecting the "Opt out" of Outcome Tracker Box on the subscribers account page.

## **7. Customization Feature**

Subscriber members acknowledge and understand that ChiroUp provides a customization feature under which members may add to, or "customize" any component of the ChiroUp database, including text and graphics. Subscriber members agree to provide only subscriber member's own original content and abide by all intellectual property laws, including those pertaining to copyright, patents and trademarks. Subscriber agrees to avoid incorporating information that is protected by copyright, patent or trademark or otherwise not wholly owned by the subscriber. Furthermore, subscriber agrees to accept full legal responsibility and liability for customized content and to indemnify and hold ChiroUp harmless for any claim made against ChiroUp arising from content that the subscriber has customized or distributed, including but not limited to intellectual property right infringement, adverse patient response, or related litigation. This indemnification right is in addition to, and in no way obviates, the indemnification rights described in paragraph 9 below.

## **8. Waiver**

The websites have made every attempt to provide current patient care information based on peer-reviewed, empirical studies and scientific literature. However, all providers are responsible to use their own clinical judgment and discretion based on the unique circumstances of each individual patient. Provider Users acknowledge and agree that they, and not ChiroUp.com, are responsible for patient care. In addition, ChiroUp.com has used its best efforts to provide accurate and constructive information regarding practice management and other business issues. However, users acknowledge and agree that each practice is unique, and it is the responsibility of the practice to make its own business decisions. Therefore, all ChiroUp.com users hereby fully release and waive any and all claims of any nature against ChiroUp.com, such as claims involving patient care and business/practice management and marketing, including but not limited to claims involving: literature reviews and other medical information; recommendations for orthopedic tests and treatments, whether by video or otherwise; methods for particular exercises as demonstrated on videos or otherwise; distribution of printed materials to patients for exercise plans and other activities; business forms of any type; office policy manuals; office forms; clinical forms including patient record templates; and marketing concepts and sample forms. Provider users specifically acknowledge and agree that the information provided on the websites does not constitute and is not intended as legal advice; that laws vary from jurisdiction to jurisdiction; that provider users are solely responsible for tailoring forms to their own practice and for compliance with local laws. The

websites are not liable for any claims based on results of patient care, treatment plans or actual treatment, or for results of any business, practice management or promotional tool obtained from the websites.

Further, ChiroUp.com cannot and does not warrant or make any representations concerning the accuracy, likely results, or reliability of the use of the materials on any sites linked to this site. ChiroUp.com and/or HealthCom.io may display, include, or make available third-party content (including data, information, applications, and other products, services, and/or materials) or provide links to third-party websites or services, including through third-party advertising ("Third-Party Materials"). Users acknowledge and agree that ChiroUp.com and/or HealthCom.io is not responsible for Third-Party Materials, including their accuracy, completeness, timeliness, validity, copyright compliance, legality, decency, quality, or any other aspect thereof. Neither ChiroUp.com nor HealthCom.io assumes nor has any liability or responsibility to a user or any other person or entity for any Third-Party Materials. Third-Party Materials and links thereto are provided solely as a convenience to the user, and a user may access and use them entirely at his or her own risk and subject to such third parties' terms and conditions.

## **9. Indemnification**

ChiroUp.com has designed and intends this website for use by health care providers who have accepted these Terms of Use. ChiroUp.com has designed and intends HealthCom.io, to be used by patients who have accepted the Terms of Use for HealthCom.io. ChiroUp.com's subscriber members agree that they will make every effort to ensure that their patients formally approve the Terms of Use and Waiver for HealthCom.io in the event such subscriber members provide patients with materials from, or in any way allow patients to view material on ChiroUp.com. Neither ChiroUp.com nor HealthCom.io will be liable to patients for any claim for damages of any nature, including cases in which the subscriber member's patient has not agreed to the Terms of Use and Waiver for the websites. ChiroUp.com provider users agree to indemnify and hold ChiroUp.com and/or HealthCom.io harmless for any and all claims, judgments, awards or losses or any kind arising out of a patient's claim for damages against ChiroUp.com or HealthCom.io.

## **10. Limitations**

In no event shall ChiroUp.com, HealthCom.io or its suppliers be liable for any damages (including, without limitation, incidental damages of any kind, damages for loss of data or profit, or damages due to business interruption,) arising out of the use or inability to use the materials on the websites, even if ChiroUp.com and/or HealthCom.io have been notified orally or in writing of the possibility of such damage. In addition, users acknowledge that each state has different standards for professional conduct, including advertising, and users take responsibility for complying with the professional conduct and advertising laws of their own states. ChiroUp.com shall have no liability for any complaint, investigation, or action against a user or the user's professional license regarding professional conduct or advertising.

Further, the website and materials are provided to user "as is" and with all faults and defects without warranty of any kind. To the maximum extent permitted under applicable law, ChiroUp.com and HealthCom.io, each on its own behalf and on behalf of its affiliates and its and their respective licensors and service providers, expressly disclaims all warranties, whether

express, implied, statutory, or otherwise, with respect to the application, including all implied warranties of merchantability, fitness for a particular purpose, title, and non-infringement, and warranties that may arise out of course of dealing, course of performance, usage, or trade practice. Without limitation to the foregoing, neither ChiroUp.com nor HealthCom.io provides any warranty or undertaking, and makes no representation of any kind that the website or materials will meet your requirements, achieve any intended results, be compatible, or work with any other software, applications, systems, or services, operate without interruption, meet any performance or reliability standards, or be error-free, or that any errors or defects can or will be corrected.

### **11. Modification of Website**

ChiroUp.com may make changes to the website and materials contained on its websites at any time without notice. All changes are subject to all terms and conditions of this Agreement.

### **12. Terms of Use Modifications**

ChiroUp.com may revise these Terms of Use and Waiver and for its website at any time without notice. By using this website you are agreeing to be bound by the then current version of these Terms of Use and Waiver.

### **13. Claims and Governing Law for Misuse of Website**

Users agree that they will be liable for monetary damages to ChiroUp.com to the fullest extent of the law for any and all breach of these Terms. User also agrees to pay any and all attorney fees, costs of collection and/or costs of litigation incurred as a result of User's breach. Any claim relating to website shall be governed by the laws of the State of Illinois without regard to its conflict of law provisions. Any legal suit, action, or proceeding arising out of or related to this Agreement or the website or materials shall be instituted exclusively in the federal courts of the United States or the courts of the State of Illinois in each case located in East St. Louis and Madison County. User waives any and all objections to the exercise of jurisdiction over the user by such courts and to venue in such courts. This Agreement and the ChiroUp.com Privacy Policy constitute the entire agreement between the user and ChiroUp.com with respect to the website and materials and supersede all prior or contemporaneous understandings and agreements, whether written or oral, with respect to the website and materials.

I agree to abide by the ChiroUp.com Terms of Use as outlined herein.

Subscriber \_\_\_\_\_

Date \_\_\_\_\_