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MaxMD Patient Direct Messaging Service

Authorized User Agreement

Welcome to the MaxMD® Patient Direct Messaging Service (the “Service”) operated by Park Avenue Capital, LLC, doing business as “MaxMD” (“MaxMD”, “we”, or “us”). This Authorized User Agreement (“Agreement”) constitutes a binding agreement between us and you, the authorized user (“Authorized User”, “you” or “your”), and governs your use of the Service.

BY CLICKING ON THE “I ACCEPT” BUTTON AFTER THIS AGREEMENT, YOU AGREE TO BE BOUND BY THIS AGREEMENT. IF YOU DO NOT AGREE TO BE BOUND BY THIS AGREEMENT, PLEASE DO NOT CLICK ON THE “I ACCEPT” BUTTON AND DO NOT ACCESS OR USE THE SERVICE.

BY CLICKING ON THE “I ACCEPT” BUTTON, OR BY ACCESSING OR USING THE SERVICE, YOU REPRESENT AND WARRANT THAT (A) YOU ARE AT LEAST 18 YEARS OLD AND THE AGE OF MAJORITY AND LEGAL CONSENT IN THE JURISDICTION IN WHICH YOU LIVE OR RESIDE, AND (B) YOU AGREE TO BE BOUND BY THIS AGREEMENT.

You agree to execute a written copy of this Agreement upon our request.

THIS AGREEMENT MAY BE AMENDED OR CHANGED BY US IN OUR DISCRETION AT ANY TIME. We will notify you of changes to this Agreement by posting the amended terms on our website (“Website”) at least thirty (30) days before the effective date of the changes. If you have provided us with your email address, we will also notify you by email of material changes to this Agreement by sending an email to the email we have on file at least thirty (30) days before the effective date of the changes. We encourage you to keep the email address you provide to us current, and to promptly notify us of any changes to your email address, so that you may receive any notices we send to you regarding material changes to this Agreement.

Any amendment or change to this Agreement will not apply to any dispute that we had actual notice of prior to the effective date of the amendment or change. We indicate at the top of the page when this Agreement was last updated. Your continued access or use of the Service following such changes will be deemed acceptance of such changes. Be sure to return to this page periodically to ensure you are familiar with the most current version of this Agreement.

We are committed to protecting the privacy of the personal information and any protected health information (collectively, “Personal Data”) provided by you to MaxMD or transmitted through the Service. Any Personal Data provided by you or transmitted through the Service is subject to our Privacy Policy located at <https://www.directmdemail.com/documents/PrivacyPolicy>, which is incorporated herein by reference. PLEASE REVIEW OUR PRIVACY POLICY TO UNDERSTAND OUR PRACTICES WITH RESPECT TO YOUR PERSONAL DATA.

WARNING: THE WEBSITE AND SERVICE ARE PROTECTED BY COPYRIGHT LAW AND INTERNATIONAL TREATIES. UNAUTHORIZED REPRODUCTION, DISTRIBUTION OR USE OF THE WEBSITE OR SERVICE MAY RESULT IN SEVERE CIVIL AND CRIMINAL PENALTIES AND WILL BE PROSECUTED TO THE MAXIMUM EXTENT PERMITTED BY LAW.

1. Medical Advice Disclaimer.

If you believe you or any other individual has a medical emergency or any other health problem, you should promptly call an emergency medical service provider or consult your physician or healthcare provider. If you think you may be suffering from any medical condition, you should seek immediate medical attention. The Website and Service are not designed to, and do not provide, medical advice, professional diagnosis, opinions, or treatment to you or to any other person. Never disregard medical or professional advice, or delay seeking it, because of something you read on the Website or through the Service or on any linked website. You should also ask your physician or other healthcare provider to assist you in interpreting any information provided through the Website, Service or any linked website, or in applying any such information to your individual case.

2. Accounts.

Upon completion of the identification and registration process for the Service, you will be assigned a unique user name and Direct Address for use of the Service (an "Account"). This Account is separate and distinct from the account you establish to use the MaxMD website and other services offered through the MaxMD website. When you set up your Account for the Service, you will also be asked to set up a password. You are responsible for maintaining the confidentiality of your password and for all activity that occurs under your Account. You agree not to share your password with anyone. Each individual who uses the Service must set up their own Account associated with their own verifiable personal identity. You have the right to grant a family member, loved one or care giver access to your records. However, a separate Account is required for each such person. This access can be revoked by you at any time.

3. Fees and Payments.

a. Fees and Billing. The Service is provided for a fee, which is provided at the time you purchase a subscription to the Service. We may add new features or services to the Service for additional fees and charges. However, we will not charge you additional fees unless you elect to purchase these new features or services.

b. Subscriptions. When you purchase a subscription to use the Service, the following terms will apply:

- **AUTOMATIC RENEWAL.** If you purchase a subscription to use the Service, your subscription will automatically renew following the applicable initial subscription period for ongoing additional periods equal to the period of your initial subscription at the rate you paid for your initial subscription. You may elect to cancel your subscription prior to renewal by following the cancellation procedures described below. If you do not cancel your subscription, your payment account will be automatically charged seven (7) days

prior to the beginning of the next renewal period. If payment is declined for any reason, we will send you an email to the email address we have on file alerting you of such payment failure. We may re-try to renew your subscription with the payment information we have on file between the initial decline payment and the date your subscription expires.

- **How to Cancel Your Subscription.** To cancel your subscription to the Service, you may do so by following the administrative features available through the Service. If you cancel your subscription, you will not receive a refund for any fees charged to your payment account prior to the date of cancellation, unless you chose to cancel your subscription during the period between the time we charge your credit card for a renewal period and the date such renewal period begins, in which case, we will credit your credit card for the renewal subscription amount charged.

4. License to Access and Use the Service.

Upon completion of the identification and registration process to use the Service and your acceptance of this Agreement, MaxMD grants you a limited, non-exclusive, non-transferrable and non-sub-licensable license to access and use the Service only for your personal, non-commercial use and to download copies of your Personal Data transmitted to your Direct Address through the Service. This license terminates automatically if you breach any of the terms and conditions of this Agreement or upon termination of this Agreement for any reason. All rights (including but not limited to all intellectual and proprietary rights) in and to the Service, and MaxMD's and its licensors' software and systems used to provide the Service, are hereby exclusively reserved to MaxMD and its licensors.

5. Restrictions on Use of the Service.

Except as expressly authorized in Section 4 above, you may not copy, modify, distribute, download, display, transfer, post, or transmit any portion of the Service or its content in any form without MaxMD's prior written permission in each instance. In addition, you may not decompile, disassemble, or reverse engineer any portion of the Service or any related applications or software. The following activities are also expressly prohibited without MaxMD's prior written permission in each instance: (a) any non-personal or commercial use of the Website or Service; (b) use of any robot, spider, other automatic device, or manual process to monitor or copy the Website or Service or any of related content; (c) "mirroring" the Website or Service or any related content on any other server; (d) creating any derivative work of the Website or Service or any associated software or applications; (e) use of the Website or Service or any portion thereof for application development purposes; and (g) any action that imposes an unreasonable or disproportionately large load on the Website, servers or systems used to provide the Service or that otherwise interferes with the proper functioning of the Website or Service.

6. Compliance with Laws.

- a. Website and Service Available in United States Only. We control and operate the Website and Service from the United States of America. We do not represent that the Website or Service or related materials are appropriate or available for use in other locations. If you

chose choose to access the Website or Service from other locations, you do so at your sole risk and you are responsible for compliance with all applicable laws, including the local laws of your jurisdiction.

- b. HIPAA. MaxMD uses commercially reasonable efforts to comply with the Health Insurance Portability and Accountability Act, P.L. 104-191, as amended (“HIPAA”), which governs the use and transmission of Protected Health Information (as defined in HIPAA). However, neither MaxMD nor its licensors nor Service Providers guarantee that the Service can be modified to comply with changes in HIPAA or other applicable law. You agree that it is your obligation to comply with HIPAA and other applicable law in your use of the Service.

7. Posting and Transmitting to the Service.

- a. Personal Data. You are solely responsible for the accuracy and completeness of any Personal Data (as defined above) transmitted or modified by you through the Website or Service. MaxMD will not modify your Personal Data unless expressly authorized by you to do so. You hereby grant MaxMD and its Service Providers a non-exclusive license to receive, transmit and store your Personal Data as reasonably necessary to provide the Website and Service.
- b. Postings to the Website or Service. By sending information or content to MaxMD through the Website or Service (including by transmitting, posting, or otherwise) that is not Personal Data, you agree that MaxMD may use that information and content in any way, for any purpose, including MaxMD’s own commercial purposes. You may not post or transmit any threatening, defamatory, sexually graphic, inflammatory, profane, or other inappropriate or illegal material. MaxMD reserves the right to edit or remove any post or transmission that, in its sole judgment, is not appropriate.

8. Accuracy of Information and Disclaimer of Warranty.

EXCEPT AS EXPRESSLY STATED IN THIS AGREEMENT, THE WEBSITE AND SERVICE ARE PROVIDED "AS-IS" AND WE AND OUR LICENSORS AND SERVICE PROVIDERS EXPRESSLY DISCLAIM ANY IMPLIED WARRANTIES TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, INCLUDING BUT NOT LIMITED TO, ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE OR NON-INFRINGEMENT, FREEDOM FROM COMPUTER VIRUSES, OR ANY IMPLIED WARRANTY ARISING FROM COURSE OF DEALING OR TRADE. TO THE EXTENT APPLICABLE LAWS PROHIBIT TERMS OF USE OR CLICK-WRAP AGREEMENTS FROM DISCLAIMING ANY IMPLIED WARRANTY, THE APPLICABLE IMPLIED WARRANTY SHALL BE LIMITED TO THE MINIMUM WARRANTY AND WARRANTY PERIOD REQUIRED BY LAW. WE CANNOT GUARANTEE AND DO NOT PROMISE ANY SPECIFIC RESULTS FROM USE OF THE WEBSITE OR SERVICE. WITHOUT LIMITING THE

FOREGOING, WE DO NOT WARRANT THAT THE WEBSITE OR SERVICE WILL BE UNINTERRUPTED OR ERROR-FREE.

9. Limitation of Liability.

IN NO EVENT WILL WE OR OUR LICENSORS OR SERVICE PROVIDERS BE LIABLE TO YOU FOR ANY INDIRECT, CONSEQUENTIAL, EXEMPLARY, INCIDENTAL, SPECIAL OR PUNITIVE DAMAGES, INCLUDING BUT NOT LIMITED TO, LOST PROFITS OR LOSS OF DATA, ARISING OUT OF YOUR USE, OR INABILITY TO USE, THE WEBSITE OR SERVICE, EVEN IF WE OR OUR LICENSORS OR SERVICE PROVIDERS HAVE BEEN ADVISED OF THE POSSIBILITY OF THESE TYPES OF DAMAGES. UNDER NO CIRCUMSTANCES SHALL MAXMD OR ITS LICENSORS OR SERVICE PROVIDERS BE LIABLE FOR ANY CLAIM FOR DIRECT OR OTHER DAMAGES IN EXCESS OF THE AMOUNT PAID BY YOU FOR USE OF THE SERVICE DURING THE SIX (6) MONTH PERIOD PRECEDING THE CLAIM, OR IF NO FEES WERE PAID BY YOU DURING SUCH PERIOD, THE SUM OF \$100. THE FOREGOING LIMITATION SHALL APPLY TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW.

10. Links to Third Party Websites.

MaxMD does not review or control third party websites, content or resources (“Resources”) that link to or from the Website or Service. MaxMD is not responsible for their content, and does not represent that their content is accurate or appropriate. You acknowledge and agree that we have no control over and are not responsible for the availability of these Resources, and we do not endorse any advertising, products or other materials on or available from these Resources. Because we cannot control the activities of these Resources, we cannot accept responsibility for any use of your Personal Data or information by these Resources, and we cannot guarantee that they will adhere to the same privacy and security practices as us. If you visit or link to a Resource, you should consult that Resource’s terms and conditions and privacy policy before providing any Personal Data or information. Your use of any such third-party website is at your discretion and at your sole risk.

11. Ownership.

The Website and Service and all related content, information, software and systems provided or made available through the Website or Service are protected by law, including, but not limited to, United States copyright law and international treaties. We and our licensors and service providers retain exclusive ownership of the Website, Service and all related content, information, software and systems provided or made available through the Website or Service (other than your Personal Data). The copyright in the material, content and information provided through the Website and Service is owned by MaxMD or its licensors. All trademarks and service marks are the property of their respective owners.

12. Release.

In the event that you have a dispute with one or more other users of the Website or Service, you hereby release us, our affiliates, contractors and their parent, subsidiary and affiliated entities, and ours and their shareholders, directors, officers, employees, representatives, agents, successors and assigns from any and all claims, demands, damages (actual and consequential), losses and liabilities of every kind or nature, known and unknown, suspected and unsuspected, disclosed and undisclosed, arising out of or in any way related to these disputes. If you are a California resident, you waive California Civil Code Section 1542, which says in part: “A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which, if known by him must have materially affected his settlement with the debtor.”

13. Termination and Suspension.

We reserve the right without liability to terminate or restrict this Agreement or your Account, or your access to or use of the Website or Service if we believe that you have violated or acted inconsistently with the letter or spirit of this Agreement. We also reserve the right to suspend the Service, or any portion of the Service, if we believe such suspension may be necessary or prudent to comply with applicable law or to protect the Service, any Personal Data, or any related networks or systems. We will usually commercially reasonable to give you prior notice of any such suspension to the extent practical and if permitted by law. You agree that we shall not be liable to you or any third-party for any interference with or termination of your access to the Service or your Account. All decisions regarding the termination of this Agreement or your Account or suspension of the Service shall be made by us in our discretion. We are not required, and may be prohibited, from disclosing to you the reason for termination of this Agreement or your Account or suspension of the Service. Upon termination of this Agreement for any reason, those provisions which, by their nature survive termination (including, but not limited to, Sections 8 through 22 shall survive termination in accordance with their respective terms.

14. Notices.

By providing us your email address you consent to our using your email address to send you Service-related notices, in lieu of communication by postal mail or other methods. We may also use your email address to send you other messages, such as changes to features of the Service and special offers. If you do not want to receive these email messages, you may opt out by using the unsubscribe option in the applicable email. Opting out may prevent you from receiving email messages regarding updates, improvements or offers with respect to the Service.

Except as explicitly stated otherwise, legal and other notices (including but not limited to notices of legal proceedings) shall be delivered to us by U.S. mail at Park Avenue Capital, LLC, 2200 Fletcher Avenue, Fort Lee, New Jersey 07024, Attention: PrivacyOfficer@maxmddirect.com, or to you at the email address you provided us (a) at the time you registered; (b) through a subsequent notice of an address change; or (c) through a posting through the Service or Website. Physical notices shall be effective when received. Email notices shall be deemed given 24 hours after email is sent, unless the sending party is notified that the email address is invalid. In addition, we may provide notice by certified mail, postage prepaid and return receipt requested. In these situations, notice shall be deemed given when received.

15. Force Majeure.

Neither we nor our licensors or service providers shall be responsible or liable for any delay or failure in performance hereunder caused by acts of God (or natural disasters), terrorism, strikes, embargoes, fires, war, or any other cause beyond our reasonable control.

16. Governing Law.

This Agreement shall be governed by and construed in accordance with the laws of the State of New Jersey, conflict of laws principles excluded, and the parties irrevocably consent to bring any action to enforce this Agreement in the federal or state courts located in Fort Lee, New Jersey. You consent to the exclusive jurisdiction of the federal or state courts located in Fort Lee, New Jersey with respect to any claim arising out of this Agreement.

17. No Waiver.

No delay or failure by us to take any action under this Agreement will be a waiver by us of any provision of this Agreement.

18. Enforceability.

If any provision of this Agreement is invalid or unenforceable under applicable law, the remaining provisions will continue in full force and effect.

19. Assignment; Binding Effect.

This Agreement is personal to you and may not be transferred, assigned or delegated by you to any other person or entity. Any attempt by you to assign, transfer or delegate this Agreement shall be null and void. This Agreement will bind and inure to the benefit of each party's permitted successors and assigns.

20. Entire Agreement.

This Agreement sets forth the complete and exclusive agreement between us and you with respect to the subject matter of this Agreement.

21. Third Party Beneficiaries.

Except for our licensors and service providers, who shall be third party beneficiaries of this Agreement, this Agreement is between us and you and there are no other third party beneficiaries of this Agreement.

22. Questions.

If you have questions about the Service or MaxMD's Privacy Policy or our practices, please contact PrivacyOfficer@www.maxmddirect.com, or send mail to:

Park Avenue Capital, LLC
2200 Fletcher Avenue
Fort Lee, New Jersey 07024

Attention: Privacy Officer