

## **Membersy Connect**

### **Terms of Service**

Effective date: January 19, 2022

These Terms of Service (the “Terms”) govern your use of the [Membersy Connect membership plan dashboard](#) as well as any other website, mobile application or related service that may, from time to time, be provided to you in connection with Membersy Connect (collectively, the “Service”) and including all of the materials, documents, text, images, graphics and other information and content included in or available through the foregoing (collectively, the “Content”). The Service is owned and operated by Membersy LLC (“Membersy”).

The Service is offered to you in your capacity as an employee or representative of a dental office, dental service organization or other entity (the “Customer Entity”) that has engaged Membersy to provide dental membership plan administration services pursuant to a mutually agreed written agreement (the “Customer Agreement”). These Terms supplement the Customer Agreement with respect to your use of the Service. To the extent of any conflict between these Terms and the Customer Agreement, the conflicting provision of these Terms shall supersede solely with respect to your use of the Service.

**IF YOU DO NOT AGREE TO THESE TERMS, OR IF YOU ARE NOT ELIGIBLE OR AUTHORIZED TO DO SO, THEN DO NOT REGISTER FOR, ACCESS OR USE THE SERVICE. COMPLETING ANY REGISTRATION PROCESS OR OTHERWISE ACCESSING OR USING ANY PART OF THE SERVICE WILL CONSTITUTE ACCEPTANCE OF, AND CREATE A LEGALLY ENFORCEABLE CONTRACT UNDER WHICH YOU AGREE TO BE BOUND BY, THESE TERMS, WITHOUT MODIFICATION.**

#### **1. PURPOSE AND LICENSE; FEEDBACK LICENSE**

**1.1 Purpose and License.** Membersy grants you a limited, non-exclusive, non-transferable, non-sublicensable license to use the Service solely on behalf of the Customer Entity with which you are associated and in accordance with these Terms and the applicable Customer Agreement. You acknowledge and agree that Membersy may revoke your right to access the Service at any time for any or no reason, including as a result of your breach of these Terms or any expiration or termination of the applicable Customer Agreement.

**1.2 Feedback License.** You hereby grant Membersy a royalty-free, fully paid-up, worldwide, transferable, sub-licensable, irrevocable and perpetual license to implement, use, modify, or commercially exploit, for any reason, any suggestions, enhancement requests, recommendations or other feedback you provide to Membersy regarding the Service.

#### **2. PRIVACY**

Your use of the Service and any personal information you provide through the Service is subject to the [privacy policy](#) (the “Privacy Policy”), which is incorporated herein by this reference.

#### **3. RULES AND CONDUCT**

As a condition to your use of the Service, you agree not to use the Service for any purpose that is unlawful or prohibited by these Terms. You acknowledge that you, and not Membersy, are

entirely responsible for all information, data, text, messages and/or other materials that you upload, post, e-mail, transmit or otherwise make available through the Service.

You represent, warrant, and agree that you will not use or interact with the Service in a manner that:

- (a) infringes or violates the intellectual property rights or any other rights of anyone else (including Membersy);
- (b) violates any law or regulation, including, without limitation, any applicable export control laws or privacy laws;
- (c) is dangerous, harmful, fraudulent, deceptive, threatening, harassing, defamatory, obscene, or otherwise objectionable;
- (d) violates the security of any computer network, or cracks any passwords or security encryption codes;
- (e) impersonates any other person or entity;
- (f) imposes an unreasonable or disproportionately large load on Membersy's computing, storage or communications infrastructure;
- (g) "crawls," "scrapes," or "spiders" any page, data, or portion of or relating to the Service or Content (through use of manual or automated means);
- (h) copies or stores any significant portion of the Content; or
- (i) decompiles, reverse engineers, or otherwise attempts to obtain the source code or underlying ideas or information of or relating to the Service.

A violation of any of the foregoing is grounds for termination of your right to use or access the Service. Notwithstanding anything in this [Section 3](#) to the contrary, you are not restricted from downloading or using internally any data or reports that are made available to you through the Service regarding the dental membership plans administered by Membersy pursuant to the applicable Customer Agreement, such as (i) roster data regarding your plan, including names, dates of birth, addresses, membership start and end dates, names of enrolled dependents, dental provider and payment method for members participating in your plan; (ii) financial information regarding the plan, including records of payouts and other fund transfers; and (iii) enrollment trends, including the number of enrollments, renewals and re-enrollments (such data and reports, collectively, the "Plan Information").

#### **4. STRIPE PAYMENT PROCESSING SERVICES.**

Membersy uses Stripe to make payouts to connected account holders ("Payouts"). The [Stripe Recipient Agreement](#) applies to your receipt of such Payouts, if any, and the [Stripe Privacy Policy](#) governs Stripe's use of personal data provided to Stripe in connection with Payouts. To receive Payouts from Membersy, you must provide us with accurate and complete information about you and your business, and you authorize us to share it and transaction information related to your Payout with Stripe. We are not responsible for any error by, or other acts or omissions of, Stripe in connection with Payouts.

#### **5. PROPRIETARY RIGHTS**

As between you and Membersy, Membersy retains all right, title and interest in and to the Service, all Content made available through the Service, and all intellectual property rights in and to the foregoing. You promise to abide by all copyright notices, trademark rules, information,

and restrictions contained in any Content you access through the Service and agree not to use, copy, reproduce, modify, translate, publish, broadcast, transmit, distribute, perform, upload, display, license, sell, commercialize or otherwise exploit Content in a way that violates someone else's (including Membersy's) rights. All Content other than Plan Information constitutes Membersy's Confidential Information and is subject to the non-use and non-disclosure obligations in your applicable Customer Agreement.

Membersy hereby grants you permission to temporarily download one copy of the Content for transitory viewing only. This is the grant of a license, not a transfer of title, and this license shall automatically terminate if your right to use the Service is terminated or expires, including in connection with any termination or expiration of the applicable Customer Agreement. In connection with your use of the Service and the Content, you agree not to:

- (a) modify or copy the Content; *provided*, that you are not restricted from copying or modifying Plan Information in connection with your internal use of such Plan Information;
- (b) use the Service or the Content with the intent to design, build, promote or commercialize any service competitive with, or substantially similar to, the Service; or
- (c) transfer your rights to use the Service or Content to another person not employed by or associated with the applicable Customer Entity or "mirror" the materials on any other server.

## **6. CHANGES TO THE SERVICE AND THESE TERMS**

**6.1 Changes to Service.** We're always trying to improve our Service, so it may change over time. We may suspend or discontinue any part of the Service, or we may introduce new features or impose limits on certain features or restrict access to parts or all of the Service. We reserve the right to remove any Content from the Service at any time, for any reason.

**6.2 Changes to Terms.** We reserve the right to change the Terms at any time by providing an updated version on the Service. If you don't agree with the new Terms, you are free to reject them; unfortunately, that means you will no longer be able to use the Service. If you use the Service in any way after a change to the Terms is effective, that means you agree to all of the changes.

## **7. WARRANTY DISCLAIMER**

Membersy and its licensors, suppliers, partners, parent, subsidiaries or affiliated entities, and each of their respective officers, directors, members, employees, consultants, contract employees, representatives and agents, and each of their respective successors and assigns (Membersy and all such parties together, the "Membersy Parties") make no representations or warranties concerning the Service, including without limitation regarding any Content contained in or accessed through the Service, and the Membersy Parties will not be responsible or liable for the accuracy, copyright compliance, legality, or decency of material contained in or accessed through the Service or any claims, actions, suits procedures, costs, expenses, damages or liabilities arising out of use of, or in any way related to your participation in, the Service. THE SERVICE AND CONTENT ARE PROVIDED BY MEMBERSY (AND ITS LICENSORS AND SUPPLIERS) ON AN "AS-IS" BASIS, WITHOUT WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, IMPLIED WARRANTIES OF

MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, OR THAT USE OF THE SERVICE WILL BE UNINTERRUPTED OR ERROR-FREE. SOME STATES DO NOT ALLOW LIMITATIONS ON HOW LONG AN IMPLIED WARRANTY LASTS, SO THE ABOVE LIMITATIONS MAY NOT APPLY TO YOU. Without limiting the generality of the foregoing, you acknowledge and agree that the Service is not intended to be the sole repository of any data or information related to your business and that Membersy shall have no liability for loss of data or other consequences resulting from your use of the Service as the sole repository of such data or information. Upon any expiration or termination of your right to use the Service, Membersy may, at its discretion, remove and/or delete any Content from the Service.

## **8. LIMITATION OF LIABILITY**

TO THE FULLEST EXTENT ALLOWED BY APPLICABLE LAW, UNDER NO CIRCUMSTANCES AND UNDER NO LEGAL THEORY (INCLUDING, WITHOUT LIMITATION, TORT, CONTRACT, STRICT LIABILITY, OR OTHERWISE) SHALL ANY OF THE MEMBERSY PARTIES BE LIABLE TO YOU OR TO ANY OTHER PERSON FOR (A) ANY INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE OR CONSEQUENTIAL DAMAGES OF ANY KIND, INCLUDING DAMAGES FOR LOST PROFITS, BUSINESS INTERRUPTION, LOSS OF DATA, LOSS OF GOODWILL, WORK STOPPAGE, ACCURACY OF RESULTS, OR COMPUTER FAILURE OR MALFUNCTION, (B) ANY SUBSTITUTE GOODS, SERVICE OR TECHNOLOGY, (C) ANY AMOUNT, IN THE AGGREGATE, IN EXCESS OF ONE-HUNDRED (\$100) DOLLARS OR (D) ANY MATTER BEYOND OUR REASONABLE CONTROL. SOME STATES DO NOT ALLOW THE EXCLUSION OR LIMITATION OF INCIDENTAL OR CONSEQUENTIAL OR CERTAIN OTHER DAMAGES, SO THE ABOVE LIMITATION AND EXCLUSIONS MAY NOT APPLY TO YOU.

## **9. THIRD-PARTY SITES**

The Service may contain links or connections to third-party websites or services that are not owned or controlled by Membersy. When you access third-party websites or use third-party services, you accept that there are risks in doing so, and that Membersy is not responsible for such risks.

Membersy has no control over, and assumes no responsibility for, the content, accuracy, privacy policies, or practices of or opinions expressed in any third-party website or service. In addition, Membersy will not and cannot monitor, verify, censor or edit the content of any third-party site or service. We encourage you to be aware when you leave the Service and to read the terms and conditions and privacy policy of each third-party website or service that you visit or utilize. By using the Service, you release and hold us harmless from any and all liability arising from your use of any third-party website or service.

## **10. INDEMNITY**

You agree to indemnify and hold the Membersy Parties harmless from and against any and all claims, liabilities, damages (actual and consequential), losses and expenses (including attorneys' fees) arising from or in any way related to any claims relating to (a) your use of the Service or Content, and (b) your violation of these Terms.

## **11. MISCELLANEOUS**

The failure of either you or us to exercise, in any way, any right herein shall not be deemed a waiver of any further rights hereunder. If any provision of these Terms is found to be unenforceable or invalid, that provision will be limited or eliminated, to the minimum extent necessary, so that these Terms shall otherwise remain in full force and effect and enforceable.

Nothing in these Terms is intended to or shall be deemed to create a joint venture of any kind or for any purpose. Except as otherwise agreed by the parties in writing, neither party shall have any authority to, nor shall attempt to, bind or commit the other party for any purpose. Except as may be provided in the applicable Customer Agreement, you are not entitled to any support in connection with your use of the Service.

The governing law, dispute resolution and notice provisions of the applicable Customer Agreement are incorporated herein by reference in their entirety.

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