

# **MYHEALTHPOINT**

## **USER LICENSE AGREEMENT AND PRIVACY POLICY**

PLEASE READ THE TERMS AND CONDITIONS OF THIS USER LICENSE AGREEMENT AND PRIVACY POLICY ("AGREEMENT") CAREFULLY BEFORE ACCESSING THIS WEBSITE OR ANY RELATED OR LINKED WEBSITE OR BEFORE DOWNLOADING, INSTALLING OR USING THE SOFTWARE, MOBILE APPLICATION OR SERVICES PROVIDED BY ENTRA HEALTH SYSTEMS (EHS). BY CLICKING ON THE "I AGREE" BUTTON BELOW, YOU ACCEPT THIS AGREEMENT AND AGREE TO BE LEGALLY BOUND BY ITS TERMS AND CONDITIONS. IF YOU DECLINE THIS AGREEMENT, CLICK ON THE "CANCEL" BUTTON AND YOU WILL NOT BE PERMITTED TO ACCESS OR USE THE MYHEALTHPOINT NETWORK APPLICATION.

EHS and its MyHealthPoint Chronic Disease Management Platform may revise and update this Agreement at any time. It is your responsibility to review the Agreement and related policies each time you access MyHealthPoint. Your continued usage of MyHealthPoint will mean you accept any changes.

EHS provides access to the MyHealthPoint Portals and related MyHealthPoint Network Services and Applications to You subject to the following Agreement. EHS reserves the right to terminate the license granted herein or cancel Your Membership Account if you should violate any provision of this Agreement, or any other posted policy on the Website.

The contents of this Website, including the text, graphics, images, and information obtained from content providers, sponsors, suppliers, licensors and contractors (collectively "Contractors"), and any other materials are to be used for informational purposes only.

### **I. WEBSITE AND SERVICES NOT MEDICAL ADVICE**

THE MYHEALTHPOINT NETWORK APPLICATION PROVIDED IS NOT INTENDED IN ANY WAY TO BE A SUBSTITUTE FOR PROFESSIONAL MEDICAL ADVICE, MEDICAL TREATMENT, OR AS A MEANS TO DIAGNOSE, TREAT, CURE, OR PREVENT ANY DISEASE OR MEDICAL CONDITION. THE MYHEALTHPOINT NETWORK APPLICATION SHOULD ONLY BE USED IN CONJUNCTION WITH THE GUIDANCE AND CARE OF YOUR HEALTH CARE PROVIDER. MYHEALTHPOINT MAY NOT ACCOUNT FOR YOUR INDIVIDUAL HEALTH CONDITION AND IS NOT INTENDED AS A SUBSTITUTE FOR THE ADVICE OF YOUR HEALTH CARE PROVIDER. YOU SHOULD ALWAYS SEEK THE ADVICE OF YOUR HEALTH CARE PROVIDER ON YOUR MEDICAL CONDITIONS OR GENERAL HEALTH. NEITHER YOU NOR YOUR HEALTH CARE PROVIDER MAY USE MYHEALTHPOINT TO DIAGNOSE A HEALTH PROBLEM OR DISEASE, OR AS A MEANS OF DETERMINING THE APPROPRIATE COURSE OF TREATMENT. EHS ENCOURAGES YOU TO ADVISE YOUR HEALTH CARE PROVIDER THAT YOU ARE UTILIZING MYHEALTHPOINT AND TO SHARE THE INFORMATION YOU INPUT USING MYHEALTHPOINT WITH YOUR HEALTH CARE PROVIDER. YOU AGREE THAT THE ONLY HEALTH ADVICE YOU WILL BE RECEIVING WILL BE FROM YOUR HEALTH CARE PROVIDER, AND NOT FROM EHS OR ITS CONTRACTORS. YOU SHOULD NEVER DISREGARD THE MEDICAL ADVICE OF YOUR HEALTH CARE PROVIDER OR DELAY SEEKING SUCH ADVICE BECAUSE OF SOMETHING CONTAINED ON THE WEBSITE, OR THROUGH MYHEALTHPOINT. EHS DOES NOT PROVIDE EMERGENCY MEDICAL OR HEALTH SERVICES OR ADVICE. IN THE EVENT OF AN EMERGENCY, IMMEDIATELY CONTACT YOUR PHYSICIAN, GO TO THE EMERGENCY ROOM OF THE NEAREST HOSPITAL, OR CALL FOR EMERGENCY HELP (DIAL 911 WHERE THE SERVICE IS AVAILABLE). EHS DOES NOT RECOMMEND OR ENDORSE ANY SPECIFIC TESTS, PHYSICIANS, PRODUCTS, PROCEDURES, OPINIONS, OR OTHER INFORMATION THAT MAY BE CONTAINED ON THE WEBSITE (INCLUDING ANY OTHER SITE LINKED TO IT) OR THROUGH MYHEALTHPOINT PROVIDED.

### **II. ACKNOWLEDGMENT OF RELATIONSHIP OF THE PARTIES AS SEPARATE ENTITIES**

You hereby understand and acknowledge that EHS works with third parties to perform certain roles with respect to MYHEALTHPOINT, including Contractors that provide mobile phone and Internet access to MyHealthPoint Network services. You hereby understand and acknowledge that: (a) EHS and these Contractors are separate legal entities, and the relationship relative to EHS is that of independent contractors; (b) nothing contained in this Agreement shall be deemed or construed by You, or by any third party, as creating any partnership or joint venture relationship between EHS and these Contractors; (c) neither party is an agent or employee of the other and neither has any right nor any authority to assume or create any obligation of any kind, express or implied, on behalf of the other, nor shall the acts or omissions of either create any liability for the other; and (d) neither party shall obligate or purport to obligate the other by issuing or making any affirmations, representations, warranties or guaranties with respect to the other party or their products or services.

### III. LICENSE AND SITE ACCESS

EHS grants You a limited, revocable, non-exclusive license to access and make personal use of MYHEALTHPOINT. You may not download (other than page caching) or modify MYHEALTHPOINT, or any portion thereof, without the express written consent of EHS. You may not resell, sublicense or make commercial use of MYHEALTHPOINT or any content thereof, any collection or use of any product listings, descriptions, or prices, any derivative use of MYHEALTHPOINT or any content thereof, or use any data mining, robots, or similar data gathering and extraction tools. Neither MYHEALTHPOINT, nor any portion thereof may be reproduced, duplicated, copied, sold, resold, or otherwise exploited for any commercial purpose without express written consent of EHS. You may not frame or utilize any framing techniques to enclose any trademark, logo, or other proprietary information (including images, text, page layout, or form) of EHS or its Contractors without the party's express written consent. You may not use any metatags or any other hidden text utilizing EHS' or its Contractors' name or trademarks without the express written consent of EHS or its Contractors. Any unauthorized use terminates the license granted by EHS hereunder. You are granted a limited, revocable, and nonexclusive right to create a hyperlink to the home page of the Website so long as the link does not portray EHS, its Contractors, or their products or services in a false, misleading, derogatory, or otherwise offensive manner. You may not use any logo or other proprietary graphic or trademark of EHS or its Contractors without express written permission.

### IV. MEMBERSHIP ACCOUNT AND TYPES OF USERS

#### Membership Account

By using MYHEALTHPOINT, You agree to accept responsibility for maintaining the confidentiality of Your Membership Account, User Name and Password and for restricting access to Your computer, Your internet service, Your Mobile Device, and You agree to accept responsibility for all activities that occur under Your Membership Account, User Name or Password. EHS and its affiliates reserve the right to refuse service, terminate accounts, remove or edit content, or cancel member accounts in its sole discretion. Membership Accounts are non-transferable. You hereby expressly agree to: (a) maintain all equipment necessary for Your access to and use of MYHEALTHPOINT; (b) maintain the confidentiality and security of Your User Name, Password, Personal Information, and any other confidential information relating to Your Membership Account; (c) take responsibility for all charges resulting from use of Your Membership Account, including any and all unauthorized use prior to Your notifying EHS of such unauthorized use and taking the steps necessary to prevent further unauthorized use by changing Your Password; and (d) regularly update Personal Information, including Your e-mail address and Your Mobile Device telephone number.

Eligible User: In order to use MyHealthPoint, each Eligible User shall create a Membership Account designating a unique User Name and Password. As an Eligible User, You are solely

responsible for maintaining the privacy and secrecy of Your User Name and Password. EHS shall not be responsible for verifying that the individual inputting, accessing, viewing, storing or transmitting Personal Information is the Eligible User.

Guest User: As an Eligible User, You may grant a third party status as a Guest User with limited access to view and transmit Your Personal Information.

Authorized User: As an Eligible User, You may grant a third party status as an Authorized User with complete access to view and transmit Your Personal Information until You revoke permission to do so.

#### V. RESPONSIBILITIES OF ELIGIBLE USERS

The Eligible User retains all responsibility for verifying the accuracy of the Eligible User's Personal Information and for updating the Eligible User's Personal Information as necessary and required pursuant to the terms of this Agreement. By authorizing a Guest User or Authorized User to view and/or transmit Personal Information on Your behalf, You hereby agree to hold harmless EHS, its officers, directors, employees, agents, Contractors, affiliates, successors and assigns from any claims, causes of action, damages, costs or expenses of any sort arising out of or connected with the entry and/or use of such Personal Information. You hereby expressly waive any claims, causes of action, damages, costs or expenses of any sort You may have against EHS, its officers, directors, employees, agents, Contractors, affiliates, successors and assigns arising out of or connected with the entry and/or use of such Personal Information.

#### VI. PERSONAL INFORMATION

You agree that upon submitting Personal Information to EHS, EHS becomes the sole owner of the Personal Information, regardless of the source, and You waive any and all rights related to ownership and to EHS's use and release, discharge of the Personal Information. However, EHS only uses Personal Information obtained from You as stated in the Privacy Policy section of this Agreement. EHS does not sell or disclose Personal Information to other non-affiliated Contractors or companies, except to the extent necessary to provide You with MYHEALTHPOINT or in response to subpoenas, court orders, or legal process, from law enforcement agencies or state and federal regulators. EHS has no way to verify the accuracy of any Personal Information submitted to EHS from any source. You hereby agree to hold harmless EHS, its officers, directors, employees, agents, contractors, affiliates, successors and assigns from any claims, causes of action, damages, costs or expenses of any sort arising out of or connected with the use of Personal Information. In addition, by submitting Personal Information: (a) You understand and agree that the Personal Information may be cropped, electronically manipulated or otherwise altered (without altering its substance) for formatting, storage, and transmission purposes; (b) You certify that You are the original author (or have a written assignment of all rights from the author) of the submitted Personal Information; (c) You are the sole owner therein or otherwise have previously obtained written permission from the owner to such use of Personal Information; and (d) You have complete authority to grant to EHS the rights stated herein.

#### VII. MINIMUM REQUIRED AGE

MYHEALTHPOINT is NOT intended for use by a Minor. You must be at least 18 years of age to use the Application. A parent or legal guardian may create a Membership Account for an Eligible User who is a Minor. The parent or legal guardian is solely responsible for: (a) designating a unique User Name and Password for the Minor; (b) maintaining the privacy and secrecy of the Minor's User Name and Password; and (c) for updating the Minor's Personal Information as necessary and required pursuant to the terms of this Agreement.

#### VIII. PRIVACY POLICY AND HIPAA

EHS is committed to protecting your privacy. This EHS Privacy Policy applies to all data collected by EHS through MYHEALTHPOINT.

#### HIPAA

In the United States, EHS is fully compliant with HIPAA requirements and standards as required by law to maintain the privacy of patient protected health information and to provide patients with notice of its legal duties and privacy practices regarding protected health information. It is the policy of EHS that all employees preserve the integrity and the confidentiality of Protected Health Information (PHI) pertaining to the patients we serve. The purpose of this policy is to ensure that we have the necessary medical information and PHI to ensure payment for delivered services while protecting the confidentiality of the PHI of the patients we serve to the highest degree possible.

#### Collection of Your Personal Information

On MYHEALTHPOINT, we ask you to provide personal information, such as your e-mail address, name, home or work address, or telephone number. We also collect demographic information, such as your ZIP code, age and gender.

In order to access MYHEALTHPOINT service, you will be asked to sign in with an e-mail address and password. You will use your MYHEALTHPOINT username and password to sign in to MYHEALTHPOINT Mobile Application as well. As part of creating your account, you may also be requested to provide questions and secret answers, which we use to help verify your identity and assist in resetting your password, as well as an alternate e-mail address.

#### Use of Your Personal Information

EHS collects and uses your personal information to operate and improve its sites and services. These uses may include providing you with more effective customer service; making the sites or services easier to use by eliminating the need for you to repeatedly enter the same information; performing research and analysis aimed at improving our products, services and technologies. We also use your personal information to communicate with you. We may send certain mandatory service communications such as welcome letters, information on technical service issues, and security announcements. MYHEALTHPOINT may send periodic member letters that are considered part of the service. Additionally, with your permission, we may also occasionally send you product surveys or promotional mailings to inform you of other products or services available from MyHealthPoint and its affiliates, information about other MyHealthPoint products and services.

#### Sharing of Your Personal Information

EHS will not disclose your personal information outside of MyHealthPoint and its controlled subsidiaries and affiliates without your consent.

#### Accessing Your Personal Information

You have the ability to view or edit your personal information online. In order to help prevent your personal information from being viewed by others, you will be required to sign in with your credentials (e-mail address and password).

#### Security of Your Personal Information

EHS is committed to protecting the security of your personal information. We use a variety of security technologies and procedures to help protect your personal information from unauthorized access, use, or disclosure.

A password is used to help protect your accounts and personal information, it is your responsibility to keep your password confidential. Do not share this information with anyone. If you are sharing a computer with anyone you should always log out before leaving MYHEALTHPOINT to protect access to your information from subsequent users.

#### Use of Cookies

MYHEALTHPOINT uses "cookies" to enable you to sign in to our services and to help personalize your online experience. A cookie is a small text file that is placed on your hard disk by a Web server. Cookies contain information that can later be read by a Web server in the domain that issued the cookie to you. Cookies cannot be used to run programs or deliver viruses to your computer.

One of the primary purposes of cookies is to store your preferences and other information on your computer in order to save you time by eliminating the need to repeatedly enter the same information and to display your personalized content.

When you sign in to MYHEALTHPOINT, we store your username, and the time you signed in, in an encrypted cookie on your hard disk. This cookie allows you to move from page to page at the site without having to sign in again on each page. When you sign out, these cookies are deleted from your computer.

You have the ability to accept or decline cookies. Most Web browsers automatically accept cookies, but you can usually modify your browser setting to decline cookies if you prefer. If you choose to decline cookies, you may not be able to sign in or use other interactive features of MYHEALTHPOINT site that depend on cookies.

If you choose to accept cookies, you also have the ability to later delete cookies that you have accepted.

#### Controlling Unsolicited E-mail ("Spam")

EHS is concerned about controlling unsolicited commercial e-mail, or "spam." We will not sell, lease or rent its e-mail subscriber lists to third parties. While EHS continues to actively review and implement new technology, such as expanded filtering features, there is no currently available technology that will totally prevent the sending and receiving of unsolicited e-mail. Using junk e-mail tools and being cautious about the sharing of your e-mail address while online will help reduce the amount of unsolicited e-mail you receive.

#### Changes to This Privacy Statement

EHS and MYHEALTHPOINT may revise and update this privacy statement at any time. It is your responsibility to review the Privacy Statement each time you access MYHEALTHPOINT Network Website. Your continued usage of the website will mean you accept any changes.

#### IX. COMMUNICATIONS

When you use MYHEALTHPOINT, or send e-mails to us, You are communicating with EHS electronically. EHS will communicate with you by e-mail, by posting notices on the Website, by sending communications to Your Mobile Device, by sending communications to the street address provided in Your Membership Account, or by any means set forth in any other policy or notice published on MYHEALTHPOINT. You expressly consent to receiving communications

(including legal notices) from EHS electronically and You agree that all agreements, notices, disclosures and other communications that EHS provides to you electronically satisfy any legal requirement that such communications be in writing. You may contact EHS by e-mail at [info@MyHealthPoint.net](mailto:info@MyHealthPoint.net) and EHS will forward Your message to the appropriate EHS department. EHS tries to answer every e-mail in a timely manner but is not always able to do so. You consent to the receipt of targeted data feeds, notices and reminders from MYHEALTHPOINT Mobile Messaging & Alerts Service selected by You on MYHEALTHPOINT.

#### X. PROPRIETARY RIGHTS IN MYHEALTHPOINT

Unless otherwise indicated, MYHEALTHPOINT, its design, text, content, selection and arrangement of elements, organization, graphics, design, compilation, digital conversion and other matters related to MYHEALTHPOINT are protected as Proprietary Rights, including without limitation those of the United States and Internationally, and all rights therein are the property of EHS or the material is included with the permission of the rights owner and is protected pursuant to applicable copyright, patent, and trademark laws. Neither MYHEALTHPOINT or any portions thereof, may be used, copied, reproduced, distributed, republished, downloaded, modified, displayed, posted or transmitted in any form or by any means, including, but not limited to, electronic, mechanical, photocopying, recording, or otherwise, without EHS' express prior written permission.

#### XI. OWNERSHIP AND RESERVATION OF RIGHTS

The content of MYHEALTHPOINT is protected by EHS' copyrights, trademarks, service marks, international treaties, trade secret and/or other Proprietary Rights and laws of the U.S. and other countries. You agree to abide by all applicable Proprietary Rights laws and other laws, as well as any additional copyright notices or restrictions contained herein.

#### XII. TECHNICAL REQUIREMENTS

Access to MYHEALTHPOINT requires Internet access and a compatible Mobile Device. Your ability to access MYHEALTHPOINT is dependent upon Internet and network availability offered by Your Internet Service Provider and Mobile Service Provider. You hereby agree and acknowledge that EHS makes no representations or warranties about Your ability to access MYHEALTHPOINT.

#### XIII. SUPPORT

EHS will provide You First Level Support directly or through its Contractors from 8:00 a.m. to 5:00 p.m. (Pacific Standard Time - U.S.), Monday through Friday (excluding U.S. Federal holidays). If You have problems or difficulty using MYHEALTHPOINT, contact the help desk at +1 877 458 2646 or +1 619 684 6232.

#### XIV. Periodic Updates

From time to time, EHS and/or its Contractors may update MYHEALTHPOINT. Any and all rights in and title to any such updates, including but not limited to any proprietary rights, shall remain the sole and exclusive property of EHS.

#### XV. FEES

EHS is not responsible for any fees or costs assessed to You by Your Internet Service Provider and/or Mobile Service Provider as a result of using MYHEALTHPOINT. You agree and acknowledge that You may incur additional fees from Your Mobile Service Provider or Internet Service Provider for using MYHEALTHPOINT, such as airtime charges, usage fees, recurring or nonrecurring surcharges, transaction charges, one-time fees, changes to your plan, etc., and that

You shall be solely responsible for payment of all additional fees incurred. EHS encourages You to review Your Internet Service Provider's and Mobile Service Provider's policies to determine the types and amounts of fees that may be incurred by using MYHEALTHPOINT.

#### XVI. TERMINATION

You may cancel Your Membership Account and terminate the license to MYHEALTHPOINT granted hereunder by sending an e-mail to support@MyHealthPoint.net containing Your first and last name, User Name, meter serial number and Your intent to terminate in the body of the message. EHS WILL NOT ACCEPT OR REVIEW ANY E-MAIL NOTICE CONTAINING AN ATTACHMENT AND YOUR NOTICE WILL NOT BE VALID. EHS may terminate the license granted hereunder for cause as the result of a breach of this Agreement with ten (10) days notice if such breach is not cured, to the satisfaction of EHS at its sole discretion, within the ten (10) day Notice Period, provided however, EHS may immediately terminate the license granted hereunder if EHS determines, in its sole discretion, that such breach cannot be cured. EHS may terminate the license granted hereunder without cause with forty-five (45) days notice. After termination of the license granted hereunder, with or without cause, the Personal Information will not be made available to You. EHS encourages each Eligible User to print out his or her Personal Information and Member Account information and accumulated test record uploads during the Notice Period as the information may not be available on or after the Termination Date.

#### XVII. YOUR REPRESENTATIONS AND WARRANTIES

You hereby represent and warrant that You have all required powers and authority to enter into this Agreement and that You will not: (a) provide Personal Information that, in any way, infringes upon the rights of EHS, its Contractors or any third party; (b) transmit threatening, obscene, explicit or harassing materials, which include profane or offensive language; (c) intentionally or unintentionally disrupt network users, services or equipment, harm to other computer systems, including excessive bandwidth utilization; (d) distribute unsolicited advertising; (e) tamper with computer or network security; (f) make unauthorized entry into the Website; (g) access or load pornographic, obscene, or sexually explicit material; (h) infringe or violate any Proprietary Rights in MYHEALTHPOINT of EHS or its Contractors, or any third party; (i) violate any U.S., State, international or local law; (j) disrupt, decompile, disassemble, disable, reverse engineer, modify, impair, harm, restrict, rent, lease, loan, distribute, create derivative works or improvements from, or otherwise impede in any manner, including aesthetic disruptions or distortions, the operation of MYHEALTHPOINT, or any other software, firmware, hardware, computer system or network in any way where such disablement or impairment is caused by the elapsing of a period of time, exceeding an authorized number of copies, advancement to a particular date or other numeral (sometimes referred to as 'time bombs,' 'time locks,' or 'drop dead' devices); (k) disable or impair, or cause or allow any other party to disable or impair MYHEALTHPOINT, or any other software, firmware, hardware, computer system or network in any way by using what is sometimes referred to as 'traps,' 'access codes' or 'trap door' devices; (l) introduce or allow other similar harmful, malicious or hidden procedures, routines or mechanisms which would restrict the functionality of such programs or cause such programs to cease functioning or to damage or corrupt data, storage media, programs, equipment or communications, or otherwise interfere with operations; (m) attempt to discover any source code, protocols, or other trade secrets in MYHEALTHPOINT; (n) obtain or attempt to obtain unauthorized access to MYHEALTHPOINT; (o) incorporate MYHEALTHPOINT into any hardware or software device that You are not authorized to use or otherwise modify;

(p) use, export, or re-export MYHEALTHPOINT in violation of applicable U.S. laws or regulations; (q) sell, lease, loan, distribute, transfer, or sublicense MYHEALTHPOINT or access thereto or derive income from the use or provision thereof, whether for direct commercial or monetary gain or otherwise, without EHS' prior, express, written permission; (r) use MYHEALTHPOINT in any unlawful manner, for any unlawful purpose, or in any manner inconsistent with these Agreement; or (s) use MYHEALTHPOINT for any enterprise, commercial, or human safety purposes for which MYHEALTHPOINT was not designed.

#### XVIII. INDEMNIFICATION

You hereby agree, at Your own expense, to defend, indemnify and hold harmless EHS, and where applicable, its Contractors, from against any liability, damages, claim or demand, including reasonable attorney's fees, made by any third party against EHS or its Contractors arising from: (a) use of MYHEALTHPOINT or access to the Personal Information by You or a third party, including, without limitation, a Guest User or Authorized User; (b) Your download, access, and/or use of MYHEALTHPOINT, including any content or services provided therein; (c) any violation of any term or condition of this Agreement; (d) breach of a representation or warranty made by You hereunder; (e) infringement upon any patent, copyright or trade secret right of EHS and/or its Contractors; and/or (f) violation of applicable laws or any rights of another person or entity.

#### XIX. DISCLAIMERS AND LIMITATION OF LIABILITY

You expressly agree and acknowledge that use of MYHEALTHPOINT is at Your sole risk. Neither EHS, nor its Contractors, warrant or represent that MYHEALTHPOINT will be uninterrupted or error-free; nor do they warrant or make any representation regarding the use of the information provided on or through MYHEALTHPOINT or the results that may be obtained from the use of the information provided on or through MYHEALTHPOINT. Furthermore, neither EHS, nor its Contractors, makes any warranty or representation or as to the accuracy, reliability, or currency of any information, or content available on or through MYHEALTHPOINT.

MYHEALTHPOINT IS PROVIDED BY EHS ON AN "AS IS," "AS PROVIDED" AND "AS AVAILABLE" BASIS. EHS AND ITS CONTRACTORS MAKE NO REPRESENTATIONS OR WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, AS TO THE OPERATION OF MYHEALTHPOINT OR THE INFORMATION, CONTENT, MATERIALS, PRODUCTS OR INDIVIDUALS INCLUDED OR LISTED ON THE WEBSITE. TO THE FULLEST EXTENT PERMISSIBLE BY APPLICABLE LAW, EHS AND ITS CONTRACTORS DISCLAIM ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. UNDER NO CIRCUMSTANCES SHALL EHS OR ITS CONTRACTORS BE LIABLE TO YOU OR ANY THIRD-PARTY FOR ANY INDIRECT, CONSEQUENTIAL, INCIDENTAL, SPECIAL OR PUNITIVE DAMAGES, INCLUDING, BUT NOT LIMITED TO, LOST PROFITS AND BUSINESS INTERRUPTION, WHETHER IN CONTRACT OR IN TORT, INCLUDING NEGLIGENCE, ARISING IN ANY WAY FROM THE USE OF MYHEALTHPOINT, EVEN IF EHS IS EXPRESSLY ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT SHALL EHS' LIABILITY EXCEED THE PRICE PAID FOR THE PRODUCT OR SERVICE THAT IS THE SUBJECT OF THE CLAIM. NO ORAL ADVICE OR WRITTEN INFORMATION GIVEN BY EHS, ITS EMPLOYEES, CONTRACTORS OR THE LIKE, SHALL CREATE A WARRANTY; NOR SHALL YOU RELY ON ANY SUCH INFORMATION OR ADVICE.

Under no circumstances shall EHS or its Contractors be liable for any direct, indirect, incidental, special, or consequential damages that result from the use of or inability to use



MYHEALTHPOINT, including but not limited to the results from mistakes, omissions, interruptions, deletion of files or e-mail, errors, defects, viruses, delays in operation or transmission, or any failure of performance, whether or not resulting from acts of God, acts of Terrorism (foreign or domestic) communications failure, theft, destruction, or unauthorized access to MYHEALTHPOINT. You acknowledge that this paragraph shall apply to all content available through MYHEALTHPOINT. In those States that do not allow the exclusion or limitation of liability for consequential or incidental damages, liability is limited to the fullest extent permitted by law.

#### XX. NOTIFICATION

All notices, waivers or other communications permitted or required to be given to EHS in accordance with the provisions of this Agreement shall be in writing and shall be deemed duly given: (a) the next day, if sent via a reputable overnight courier such as FedEx; or (b) on the fifth (5th) day following deposit with the U.S. mail, certified, postage prepaid, return receipt requested, and addressed as follows:

**Entra Health Systems LLC**

**Attn: Regulatory Affairs**

**3111 Camino del Rio North, Suite 101 San Diego, CA 92108** EHS may, from time to time by publishing written notice on the Website pursuant to the terms hereof, change its address for the purpose of this Agreement.

#### XXI. ASSIGNMENT

Except with respect to permitting a Guest User or an Authorized User to access, view and transmit Your Personal Information as specifically permitted in this Agreement, You shall not assign any of Your rights, obligations or privileges (by operation of law or otherwise) hereunder. Any purported assignment of this Agreement shall be void ab initio. Nothing in this Agreement, express or implied, is intended to confer upon any party other than You, any rights, remedies, obligations, or liabilities under or by reason of this Agreement, except as expressly provided in this Agreement.

#### XXII. GENERAL PROVISIONS

The waiver or failure of EHS (or, to the extent applicable, its Contractors) to enforce any of its/their rights under this Agreement shall not be deemed to be a waiver of any of such party's rights. If any covenant or other provision of this Agreement is invalid, illegal or incapable of being enforced, by reason of any rule of law or public policy, all other conditions of this Agreement shall nevertheless remain in full force and effect, and no covenant or provision shall be dependent upon any other covenant or provision unless so expressed herein.

#### XXIII. GOVERNING LAW AND JURISDICTION

This Agreement and all acts and transactions pursuant hereto and the rights and obligations of the parties hereto shall be governed, construed and interpreted in accordance with the laws of the State of California, United States of America without giving effect to principles of conflicts of law. You hereby expressly consent to the exclusive jurisdiction and venue of the courts in and for San Diego County, California, and the United States District Court for the Southern District of California.

#### XXIV. HEADINGS

The section headings are for convenience only and do not in any way define, limit, or describe the scope of this Agreement or the intent or content of any provision thereof.

#### XXV. FORCE MAJEURE

In the event that EHS is prevented from performing or is unable to perform any of its obligations under this Agreement due to any Act of God, Act of Terrorism (foreign or domestic), fire, casualty, flood, earthquake, war, strike, lockout, epidemic, destruction of production facilities, riot, insurrection, material unavailability, or any other cause beyond its control, performance shall be excused, and the time for the performance shall be extended for the period of delay or inability to perform due to such occurrences.

#### XXVI. ENTIRE AGREEMENT

This Agreement contains the entire agreement between You and EHS with respect to the information contained herein and it supersedes all other verbal and written agreements. There are no other agreements, representations or warranties other than as set forth herein. Any description sheets or other memoranda concerning this Agreement shall in no way supersede or be controlling over the Agreement of this Agreement.

The provisions of Sections I, II, VI, X, XI, XIV, and XVI through XXVII of this Agreement shall survive the termination of this Agreement for any reason. All other rights and obligations of the parties shall cease upon termination of this Agreement.

#### XXVII. DEFINITIONS

"MYHEALTHPOINT" means the product utilized by You for the secure upload, storage, review and evaluation of blood glucose reading, including but not limited to health-related data, on the Web or to a Mobile Device or designated recipient utilizing MYHEALTHPOINT and MyHealthPoint Meter.

"MyHealthPoint Mobile Messaging & Alerts Service" means the tools on MYHEALTHPOINT website or any related or linked website, that provides options for patients to send themselves or their caregivers text messages and email notifications about their current condition.

"Authorized User" means an individual authorized by an Eligible User to access, view, and review Personal Information pertaining to the Eligible User until the Eligible User revokes such authority, as specifically set forth in this Agreement.

"Eligible User" means an individual who is eligible for a license to MYHEALTHPOINT pursuant to the Agreement set forth herein.

"First Level Support" means the service provided in response to Your initial inquiry to EHS regarding the operation of MYHEALTHPOINT generally or that identifies and documents a problem with MYHEALTHPOINT. EHS will make an initial attempt to diagnose the cause of the condition You report.

"Guest User" means an individual authorized by an Eligible User to access, view, and review Personal Information pertaining to the Eligible User on a limited basis as specifically set forth in this Agreement.

"HIPAA" means the Health Insurance Portability and Accountability Act of 1996.

"Internet Service Provider" means a company or organization that provides access to the Internet through its servers, usually for a fee.

"Membership Account" means the repository for Your blood glucose readings, other health related data, contact information, use preferences, etc. maintained through MYHEALTHPOINT.

"Minor" means an individual under the age of eighteen (18).

"Mobile Application" means the mobile phone application that directly communicates with the MYHEALTHPOINT Meter to upload readings and mobile device browser application that allows You to view a condensed version of the MYHEALTHPOINT Portals. Both of these applications were developed by EHS and downloaded by You to allow access to MYHEALTHPOINT on a Mobile Device.

"Mobile Device" means Your personal handheld mobile communications device with an associated data plan or otherwise equipped with a data package and an SMS package such as a mobile phone, tablet, PDA or Blackberry® device that is identified by type and model number by EHS as approved for use in connection with the Services.

"Mobile Service Provider" means a company or organization that provides mobile communications services through a network, usually for a fee.

"Notice Period" means the time period between the issuance of notice of termination and the terminate date. EHS encourages each Eligible User to print his or her Personal Information and Member Account data during the Notice Period as the information may not be available on or after the Termination Date.

"Password" means a case sensitive, unique string of numbers and letters, no fewer than six (6) characters in length, which must include at least one number, and which must be supplied in order to gain access to MYHEALTHPOINT. A Password must be kept secret or confidential and should be changed regularly.

"Personal Information" means medical data, uploaded readings from MYHEALTHPOINT meter, demographical and other personal information.

"Proprietary Rights" means all rights held by a party (including any third party) including, but not limited to, patents, copyrights, authors' rights, trademarks, trade names, know-how and trade secrets, irrespective of whether such rights arise under U.S. or international laws.

"Software" means the web functionality and application downloaded from the Website to access your Personal Information using MYHEALTHPOINT.

"Termination Date" means the date upon all licenses granted herein shall expire.

"Upgrades" means any modification, patch, fix, update, upgrade, new version, new release, enhancement, refinement, work around, or improvement that is incorporated into MYHEALTHPOINT and that generally adds functionality or improves performance.

"User Name" means a unique name used to identify each Eligible User when using MYHEALTHPOINT. A User Name cannot be longer than 24 characters.

"You" or "Your" or "Yourself" means the licensee or user of MYHEALTHPOINT.

**You must read and agree to the above Agreement in order to proceed with the account registration process.**