

Through the Livongo Clinical Portal ("Clinical Portal"), Livongo is making available free tools and resources that are provided "as-is." Your use of the Clinical Portal is subject to this Terms of Use (TOU), which may be updated periodically. Carefully read this TOU as they govern your use of the Clinical Portal and limit Livongo's liability. Your use of the Clinical Portal constitutes acceptance of the TOU.

- 1. Portal Account Creation and Use of the Clinical Portal.** To create your Clinical Portal account ("Portal Account"), you must provide certain personal information, which you agree will be current and accurate. You agree not to share your password or your Portal Account with others. The Clinical Portal is being provided to assist you and your organization with treatment and/or care coordination of individuals of which Livongo and your organization have a relationship.
- 2. Acceptable Use.** You will not use nor permit a third party to use the Clinical Portal to:
 - Post, transmit or display any material or information that contains any malicious code or automated use of the Clinical Portal;
 - Inhibit any other user's use of the Clinical Portal;
 - Use or attempt to use another user's account or password, except as expressly permitted in writing by Livongo;
 - Solicit or collect personal data about other users, including contact information or names;
 - Disassemble, decompile or reverse engineer any software that is a part of the Clinical Portal except to the extent such activity is expressly permitted by applicable law; or
 - Copy or disclose any Livongo confidential information or Livongo IP as defined in Section 8 below; or
 - Compete against, or disparage, Livongo in any way.

Additionally, you will only use the Clinical Portal to access an individual's records who is under your care. Furthermore, the purpose of such access shall be limited to Payment, Treatment, or limited Health Care Operations that are set forth in 45 CFR 164.506(c)(4)(i) and (ii). Payment, Treatment, and Health Care Operations have the same meaning as ascribed to those terms under 45 CFR 164.501.

- 3. Changes to this Agreement and Rights to Change or Discontinue the Clinical Portal or Your Use.** Livongo may change these TOU at any time by posting a subsequent version on the Clinical Portal. You are responsible for periodically reviewing these TOU and to discontinue your Portal Account and Clinical Portal use if you do not agree to any such changes. Your continued use of the Clinical Portal following such changes constitutes your acceptance of the new TOU, regardless of whether Livongo notified you of the changes.

You agree that Livongo may cease providing the Clinical Portal or make any changes to Clinical Portal features and functionality at any time and without prior notice to you. You also agree that Livongo may terminate your access to the Clinical Portal and your Portal Account without prior notice to you for any reason that Livongo deems appropriate. If at any time you want to stop using Clinical Portal, delete your Portal Account, and terminate your agreement to these TOU, you may do so by notifying Livongo pursuant to the terms of the Notice section of this TOU.

4. Applicable Law and HIPAA.

Your use of the Clinical Portal and any content accessed through the Clinical Portal must comply with all applicable laws, regulations and ordinances, including any laws regarding the export of data or software and the Health Insurance Portability and Accountability Act, as amended from time to time ("HIPAA").

The information residing within the Clinical Portal will contain "Protected Health Information" as defined under 45 CFR 160.103 ("PHI"). Therefore, you represent and warrant that, pursuant to 45 CFR § 164.506(c)(4), your access to the Clinical Portal is for the sole purpose of payment, treatment, or the limited health care operations

that are set forth in 45 CFR 164.506(c)(4)(i) and (ii) (collectively, the “Permitted Purposes”). You further represent and warrant that you will not, regardless of whether or not de-identified, sell the PHI obtained through the Clinical Portal.

Livongo’s provision of access to the Clinical Portal does not create a business associate relationship under HIPAA.

- 5. Medical Advice.** The Clinical Portal does not offer medical advice. Any services or content provided or accessed through the Clinical Portal is for informational purposes only and is not intended to cover all possible uses, directions, precautions, drug interactions, or adverse effects. This includes, but is not limited to, the information provided by Livongo, including its employees, in response to questions a Livongo Participant may submit or inquire during a coaching session or conversation. The Clinical Portal should not be used during a medical emergency or for the diagnosis or treatment of any medical condition. A physician or other qualified health care provider should be consulted when relying on information within the Clinical Portal, including regarding any questions about a medical condition, or before prescribing any drug, or commencing or discontinuing any course of treatment. Do not ignore or delay professional medical advice because of information accessed through the Clinical Portal. Call 911 or your doctor for all medical emergencies. LIVONGO IS NOT RESPONSIBLE OR LIABLE FOR ANY ADVICE, COURSE OF TREATMENT, DIAGNOSIS OR ANY OTHER INFORMATION, SERVICES OR PRODUCTS OBTAINED THROUGH THE USE OF THE CLINICAL PORTAL.
- 6. Confidentiality and Intellectual Property Rights.** The information available through the Clinical Portal includes confidential information and intellectual property (including trade secrets) of Livongo. You agree not to disclose or use such confidential information other than as appropriate in connection with your and your organization’s proper use the Clinical Portal for its intended purpose.

Except for any non-Livongo information you provide when creating and using your Portal Account, Livongo owns the content, software, programs, and other intellectual property contained in or underlying the Clinical Portal (referred to as “Livongo IP”). The Livongo IP is protected by U.S. and international copyright law and conventions and other laws protecting intellectual property. You agree that all rights to patents, copyrights, trademarks, trade secrets, and other proprietary rights and title in any Livongo IP developed or used in connection with the Clinical Portal are and shall remain with Livongo, and that you do not acquire any rights, express or implied, in any Livongo IP whatsoever, except as explicitly stated in this TOU.

If you believe that any material or information on the Clinical Portal is an unauthorized replication of your proprietary work or otherwise infringes your intellectual property rights, please provide a notice to Livongo pursuant to the Notice section of this TOU that contains the following information:

- an electronic or physical signature of the person authorized to act on behalf of the owner of the copyright or other intellectual property interest;
- a description of the copyrighted work or other intellectual property that you claim has been infringed; a description of where the material that you claim is infringing is located on the Clinical Portal site;
- your address, telephone number, and email address;
- a statement by you that you have a good faith belief that the disputed use is not authorized by the copyright or intellectual property owner, its agent, or the law;
- a statement by you, made under penalty of perjury, that the above information in your notice is accurate and that you are the copyright or intellectual property owner or authorized to act on the copyright or intellectual property owner's behalf.

Livongo respects the intellectual property of others, and we ask our users of the Clinical Portal to do the same. Livongo may at its discretion limit, disable and/or terminate the access of any Clinical Portal users who may be infringing Livongo IP or the intellectual property rights of others.

- 7. Warranty Disclaimers.** Livongo provides the Clinical Portal to you free of charge and for your convenience. THE CLINICAL PORTAL AND THE CONTENT, MATERIALS AND INFORMATION AVAILABLE ON THE CLINICAL PORTAL

ARE PROVIDED "AS IS" WITHOUT WARRANTY OF ANY KIND. LIVONGO SPECIFICALLY DISCLAIMS ALL EXPRESS AND IMPLIED WARRANTIES. Although Livongo uses data integrity and secure Internet connection technology that are generally regarded to be reliable, you acknowledge that no system can perfectly guard against risks of intentional intrusion or inadvertent disclosure of information. The transfer of data and information over the Internet using the Clinical Portal is beyond the control of Livongo. YOU HEREBY EXPRESSLY ASSUME THE SOLE RISK OF ANY UNAUTHORIZED DISCLOSURE OR INTENTIONAL INTRUSION, OR OF ANY DELAY, FAILURE, INTERRUPTION, OR CORRUPTION OF DATA OR OTHER INFORMATION TRANSMITTED IN CONNECTION WITH THE USE OF THE CLINICAL PORTAL, INCLUDING WITHOUT LIMITATION ANY SUCH OCCURRENCE THAT MIGHT RESULT FROM VIRUSES, MALWARE, SPYWARE OR OTHER MALICIOUS SOFTWARE WHETHER SUCH MALICIOUS SOFTWARE RESIDES ON YOUR COMPUTER OR THE CLINICAL PORTAL.

- 8. Limitation of Livongo's Liability.** EXCEPT AS EXPRESSLY PROVIDED BELOW, LIVONGO WILL NOT BE LIABLE TO YOU FOR ANY LOSS (TANGIBLE OR INTANGIBLE) OR DAMAGES OF ANY KIND ARISING FROM OR RELATED TO LIVONGO'S OPERATION OF THE CLINICAL PORTAL OR YOUR USE OF THE CLINICAL PORTAL. UNDER NO CIRCUMSTANCES SHALL LIVONGO BE LIABLE TO YOU FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL OR EXEMPLARY DAMAGES, REGARDLESS OF HOW THE DAMAGES ARE INCURRED OR THE THEORY OF LIABILITY, INCLUDING CLAIMS BASED UPON ALLEGED NEGLIGENCE BY LIVONGO. THE LIMITATIONS ON LIVONGO'S LIABILITY APPLY REGARDLESS OF WHETHER LIVONGO HAS BEEN ADVISED OF OR IS AWARE OF THE POSSIBILITY THAT SUCH LOSSES OR DAMAGES MAY OCCUR.

The only damages recoverable by you under this agreement are direct damages up to the amount of money you have paid Livongo for Clinical Portal use in the twelve (12) months preceding the event giving rise to direct damages. Currently, Livongo provides the Clinical Portal for free, so you understand that unless Livongo later charges for Clinical Portal use (and you pay Livongo for use prior to an event giving rise to direct damages), you are unable to recover from Livongo even direct damages that might arise from Livongo's operation of or your use of the Clinical Portal. The limitations on Livongo's liability in this agreement apply even if the remedy available to you fails of its essential purpose or does not fully compensate you for any losses.

If any provision in this agreement limiting Livongo's potential liability is determined to be unenforceable by a court or other authority with jurisdiction to decide the matter, such determination shall not preclude the application of other, enforceable limits that would preclude or limit the same liability, and to the extent any liability against Livongo might exist because of such a determination, that liability shall be capped at the lesser of: (i) \$100 in total or (ii) the actual amount of the damages determined to be recoverable.

- 9. Indemnification of Livongo by You.** You agree to defend, indemnify and hold harmless Livongo, its clients, and its suppliers and their respective affiliates, employees, officers, directors, agents, servants and representatives of each from any claims arising out of or related to your use of the Clinical Portal.

- 10. Notice by You to Livongo.** Any notice required under this TOU should be directed as follows:

- By mail: Livongo Health, Inc., Attn: Legal Department, 444 N. Michigan Ave., Suite 3400, Chicago, IL 60611
- By email: legal@livongo.com

- 11. Governing Law and Jurisdiction.** This agreement shall be governed by and construed under the laws of the State of Illinois, without regard to that State's conflict of laws principles. You agree that the state and federal courts located in Cook County, Illinois shall have exclusive jurisdiction over any claim or action under this agreement or related in any way to Livongo's operation or your use of the Clinical Portal, and you agree to submit to the personal jurisdiction of such courts. Notwithstanding the foregoing, you agree that Livongo may seek injunctive remedies (or equivalent legal relief) against you in any jurisdiction with regard to any breach by you of the terms of this agreement.

- 12. Survival of Terms and Severability.** If Livongo chooses to discontinue the Clinical Portal or your use thereof, or you choose to discontinue your use of the Clinical Portal and delete your Portal Account, then this agreement and your right to use the Clinical Portal terminate, but Sections 6 through 13 will continue in effect after termination of this agreement. All provisions of this agreement are intended to apply to the maximum extent

permitted by law. If any provision (or part thereof) is held to be invalid or unenforceable by any proper court or authority, then such provision (or part) will be deemed removed from the agreement, but all other terms and conditions will remain in full force and effect. You agree that any provision (or part) so removed shall be replaced with a provision designed to achieve a result as near as possible to that of the provision (or part) so removed to the maximum extent permitted by law.

- 13. Entire Agreement.** This agreement constitutes the entire agreement between you and Livongo regarding the Clinical Portal and supersedes all prior agreements, representations or understandings respecting the Clinical Portal. Notwithstanding the previous sentence, if you are, or are employed by, a person or entity other than an organization that has executed an agreement for Livongo to provide access to the Clinical Portal, this agreement does not supersede any prior written agreements respecting the Clinical Portal (including electronic agreements), but instead supplements any such prior written agreements which continue in full force an effect (and to the extent there is a conflict between this agreement and such prior written agreement, the more stringent terms shall control). Nobody, including any representative of Livongo, is authorized to make any changes or modifications to the terms of this agreement other than changes that are instituted through the authorized posting of subsequent versions of this agreement on the Clinical Portal. You are not entitled to act or rely on any representations to the contrary. A failure by Livongo to enforce any provision of this agreement, or a waiver by Livongo of any breach of this agreement, shall not act as a bar to subsequent enforcement of such provision or be deemed a waiver of any subsequent breach.

Effective: May 4, 2020