

TERMS OF OFFER

These Terms of Offer, together with any incorporated Statement(s) of Work (“**Statement of Work**”), sets forth the terms and conditions applicable to Customer’s purchase and use of subscriptions to the Products, and form the binding agreement (“**Agreement**”) between the parties.

1. DEFINITIONS

“**Authorized Users**” means any individuals authorized to use the Products by Customer as specified in an Order Form. Authorized Users may be employees or contractors of Customer.

“**Customer Data**” means the information obtained through Customer’s and its Authorized User’s use of the Products, including any information provided by Customer about Authorized Users.

“**Headspace Technology**” means all of Headspace’s proprietary technology (including data, text, video, photos, audio, software, processes, algorithms, API’s, user interfaces, know-how, techniques, designs and other tangible or intangible materials or information) made available to Customer and Authorized Users by Headspace through the Products.

“**Products**” means Headspace’s online meditation and mindfulness content developed, operated and maintained by Headspace and accessible via <http://www.headspace.com> (or other designated website) and mobile devices, to which Customer and Authorized Users are being granted access under this Agreement. The Products include, but are not limited to, the Headspace Technology and account management.

2. PRODUCTS

2.1. Provision of the Products. Subject to the terms and conditions of this Agreement, Headspace hereby grants Customer a non- exclusive, non-transferable, non-assignable limited license to use the Products solely for Customer’s own corporate wellness purposes. All rights not expressly granted to Customer are reserved by Headspace. Headspace reserves the right to make changes, modifications and enhancements to the Products from time to time.

2.2. Authorized User Accounts. In order to use the Products, each Authorized User will need to create an account through the Products and accept the Headspace Terms & Conditions located at <https://www.headspace.com/terms-and-conditions> (the “Authorized User Terms & Conditions”). Such Authorized User Terms & Conditions may be modified by Headspace from time to time with or without notice. Any Authorized User violating the Authorized User Terms & Conditions may have the Authorized User’s account and access to the Products suspended or terminated as provided therein.

2.3. Headspace Responsibilities. Headspace will: (i) use commercially reasonable efforts to make the Products available 24 hours a day, 7 days a week, except for (a) planned downtime, or (b) any unavailability caused by circumstances beyond Headspace’s reasonable control, including without limitation, acts of God, acts of government, floods, fires, earthquakes, civil unrest, acts of terror, strikes or other labor problems (other than those involving Headspace employees), Internet service provider failures or delays, or denial of service attacks; and (ii) provide the Products only in accordance with applicable laws and government regulations.

2.4. Customer Responsibilities. Customer shall use commercially reasonable efforts to prevent unauthorized access to or use of the Products. Customer shall not: (a) make the Products available to anyone other than its Authorized Users; (b) sell, resell, rent or lease the Products; (c) knowingly use the Products to store or transmit infringing, libelous, or otherwise unlawful or tortuous material, or to store or transmit material in violation of third-party privacy rights; (d) knowingly use the Products to store or transmit malicious code; (e) knowingly interfere with or disrupt the integrity or performance of the Products or third-party data contained therein; or (f) attempt to gain unauthorized access to the Products or its related systems or networks.

2.5. Customer Data. All Customer Data shall be owned by Customer and may only be used by Headspace in order (i) to deliver and optimize the Products and (ii) to develop behavioral insights about use of the Products in a such a way that does not identify the Customer or any Authorized User.

3. TERM AND TERMINATION

3.1. Term of Agreement. This Agreement commences on the Effective Date and continues until terminated by written notice pursuant to Section 3.2.

3.2. Termination.

3.2.1. Termination for Convenience. This Agreement may be terminated for convenience at any time upon written notice provided by Headspace.

3.2.2. Termination for Cause. This Agreement may be terminated by either party: (i) if the other party is in material breach of this Agreement and the breach is not cured within 14 days after written notice of the breach; or (ii) if the other party becomes the subject of a petition in bankruptcy or any other proceeding relating to insolvency, receivership, liquidation or assignment for the benefit of creditors.

3.2.3. Refund or Payment upon Termination for Cause. Upon any termination for cause by Customer, Headspace shall refund Customer any prepaid fees covering the remainder of the term. Upon any termination for cause by Headspace, Customer shall pay any unpaid fees covering the remainder of the term.

3.3. Surviving Provisions. Sections 1 (Definitions), 4 (Proprietary Rights), 5 (Confidentiality), 6 (Disclaimer), 7 (Mutual Indemnification), 8 (Limitation of Liability), and 9 (General) shall survive termination of this Agreement, together with any payment obligations accrued prior to termination and any other provisions which by their plain meaning are intended to survive.

4. PROPRIETARY RIGHTS

4.1. Reservation of Rights. Subject to the limited rights expressly granted hereunder, Headspace and its licensors reserve all right, title and interest in and to the Products, including the Headspace Technology and all related intellectual property rights. No rights are granted to Customer hereunder other than as expressly set forth herein. Customer shall not: (i) permit any third party to access the Products except as permitted hereunder; (ii) create derivative works based on the Products; (iii) copy, frame or mirror any part or content of the Products; (iv) reverse engineer the Products; or (v) access the Products in order to (a) build a competitive product or service or (b) copy any features, functions or graphics of the Products.

4.2. Suggestions. Customer hereby grants Headspace a royalty-free, worldwide, irrevocable, transferable, perpetual license to use and incorporate into the Products or other Headspace Products or products any suggestions, enhancement requests, recommendations or other feedback provided by Customer or its employees or agents relating to the Products.

5. CONFIDENTIALITY

Each party may have access to the other party's information, which shall be deemed confidential information if identified as such by the disclosing party or if the information by its nature is normally and reasonably considered confidential, such as information regarding products, pricing, methodology, research, customers, business partners, business plans and any information which provides a competitive advantage. The receiving party shall protect the disclosing party's confidential information with the same degree of care it uses for the receiving party's own confidential information (and at least a reasonable degree of care), shall use the information only to carry out this Agreement, and shall disclose the information only to the receiving party's employees (or agents bound by similar confidentiality obligations) with a need to know for that purpose. Confidential information shall remain the property of the disclosing party and shall be destroyed upon request. Information shall not be deemed confidential information if it: (i) is disclosed by the disclosing party to others without restriction on use and disclosure; (ii) becomes known to the receiving party without restriction from a third party who is not in breach of a confidentiality agreement with the disclosing party; (iii) is already known by the receiving party at the time of disclosure; or (iv) is independently developed by the receiving party without any reliance on the confidential information of the disclosing party.

6. DISCLAIMER

EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, THE PRODUCTS PROVIDED BY HEADSPACE HEREUNDER ARE PROVIDED "AS IS", AND HEADSPACE DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING BUT NOT LIMITED TO IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

7. MUTUAL INDEMNIFICATION

7.1. Indemnification by Headspace. Headspace shall indemnify and hold harmless Customer and its officers, directors, employees and agents from and against all claims, damages, losses and expenses (including reasonable attorneys' fees) arising out of any claim by a third party to the extent such claim alleges that the use of the Products by Customer and its Authorized Users in accordance with its intended purpose or any material created, prepared, or developed by Headspace and delivered through the Products infringes any patent, copyright, trademark, service mark or trade secret rights. If Headspace believes the Products are or may become the subject of a claim of infringement, Headspace may, at its option and expense, procure for itself and/or Customer and its Authorized Users the right to continue to use the Products, or modify or replace the Products to make the Products non-infringing and functionally equivalent. If Headspace concludes that neither of these alternatives is reasonably available, it may terminate this Agreement upon thirty (30) days written notice and refund any pre-paid fees covering the remainder of the term of this Agreement after such termination.

7.2. Indemnification by Customer. Customer shall indemnify and hold harmless Headspace and its officers, directors, employees

and agents from and against all claims, damages, losses and expenses (including reasonable attorneys' fees), arising out of any claim by a third party to the extent such claim is based on Customer's use of the Products other than in accordance with this Agreement.

7.3. Procedures. The party seeking indemnification shall provide detailed written notice to the indemnifying party promptly after learning of the claim, and the indemnifying party shall not be obligated to indemnify to the extent it is materially prejudiced by any delay in such notice. The indemnifying party shall have the right to assume control of the defense and settlement of the claim, and the indemnified party shall provide reasonable assistance at the indemnifying party's reasonable expense, provided that the indemnified party shall not be obligated to participate in any settlement pursuant to which the indemnified party is required to admit liability or pay any amount other than amounts concurrently reimbursed by the indemnifying party.

8. LIMITATION OF LIABILITY

NEITHER PARTY SHALL BE LIABLE FOR ANY CONSEQUENTIAL, INCIDENTAL, INDIRECT OR SPECIAL DAMAGES INCURRED BY THE OTHER PARTY, INCLUDING BUT NOT LIMITED TO LOSS OF DATA, USE OR PROFIT, EVEN IF ADVISED IN ADVANCE OF THE POSSIBILITY OF SUCH DAMAGES. EACH PARTY'S LIABILITY WITH RESPECT TO THIS AGREEMENT (WHETHER IN CONTRACT, TORT OR OTHERWISE) IS LIMITED TO AN AMOUNT EQUAL TO THE AMOUNTS PAID OR PAYABLE BY CUSTOMER UNDER THIS AGREEMENT DURING THE 12 MONTHS PRIOR TO THE DATE OF THE INITIAL EVENT CAUSING OR RESULTING IN SUCH LIABILITY. THE FOREGOING LIMITATIONS SHALL NOT APPLY TO CUSTOMER'S PAYMENT OBLIGATIONS.

9. PUBLICITY

Customer shall not externally publish and/or promote the existence or nature of its working relationship with Headspace for any purposes without the prior written consent of Headspace. Notwithstanding the foregoing, Customer shall have the right to display and/or reference the name, logo, or trademarks of Headspace with respect to internal communications.

10. GENERAL

10.1. Independent Contractor. Nothing in this Agreement shall create a joint venture, partnership, employment or agency relationship between Customer and Headspace or Headspace's employees or contractors. Neither party is authorized by this Agreement to represent, bind, obligate or contract on behalf of the other.

10.2. Entire Agreement; Amendment; Waiver. With respect to its subject matter, this Agreement represents the parties' entire agreement and supersedes all prior agreements, understandings and representations, written or oral, between the parties. This Agreement may be executed and delivered in two or more counterparts and with electronic or facsimile signatures, and may not be amended except by a writing signed by the party to be bound.

10.3. Injunctive Relief. Either party may seek to enforce its rights hereunder with respect to the protection of its confidential information or intellectual property through temporary or permanent injunctive relief, which shall be in addition to any other available relief and which shall not require a bond or security.

10.4. Severability. Any provision of this Agreement which is held invalid or unenforceable in any jurisdiction shall, as to that jurisdiction, be ineffective only to the extent of such invalidity or unenforceability and without rendering invalid or unenforceable the remainder of this Agreement or affecting the validity or enforceability of any of the provisions of this Agreement.

10.5. Assignment; No Third Party Beneficiaries. Except as expressly stated otherwise herein, neither party may assign or transfer (including by operation of law) any rights or obligations under this Agreement without the written consent of the other party, except that either party may, without such consent, assign or transfer this Agreement to a successor to the business of such party by merger, sale of assets or otherwise. Any assignment or transfer, or attempted assignment or transfer, in violation of this Agreement is void ab initio. This Agreement is not intended to confer any rights or remedies upon anyone other than the parties hereto.

10.6. Governing Law; Jurisdiction. This Agreement shall be construed in accordance with California law, without regard to that state's conflict of law principles. Any proceeding relating to this Agreement or the subject matter hereof shall be brought only in federal or state courts located in Los Angeles, California and each party hereby generally and unconditionally submits to and accepts the jurisdiction of such courts.

10.7. Notice. All notices under this Agreement shall be given by: (i) personal delivery, (ii) nationally-recognized courier service; or (iii) electronic mail to the parties' physical or email addresses as provided during the course of dealing with respect to this Agreement.

10.8. Arbitration. Customer and Headspace agree that any dispute relating to this Agreement or Customer's use of the Products or Headspace Technology may be resolved by arbitration at the sole discretion of Headspace, in which case Customer waives any right to participate in a class-action lawsuit or class-wide arbitration. Arbitration will be initiated through the American Arbitration Association ("AAA"). If the AAA is not available to arbitrate, the parties will select an alternative arbitral forum. All costs associated with arbitration are to be split evenly between the parties. The arbitrator will decide the jurisdiction of the arbitrator and the rights and liabilities, if any, of Customer and Headspace. The arbitrator will have the authority to award all remedies available under applicable law, the arbitral forums rules, and the terms of arbitration. The award of the arbitrator is final and binding upon the parties.