

**VERICARDIA**  
**TERMS OF USE**

Last revised: October 15, 2020

<p><b>PLEASE READ THESE TERMS OF USE CAREFULLY</b></p>	<p><b>PLAIN LANGUAGE</b></p> <p><u>The terms on the left are legally binding. You must read them to use the app.</u></p> <p>However, we have explained certain provisions in case you were unsure as to what they mean.</p>
<p>These Terms of Use (the “<b>Terms of Use</b>”) govern your use of vericardia.com, related websites and VeriCardia mobile application (collectively the “<b>App</b>”) as well as services available through the App (the “<b>Services</b>”).</p> <p>These Terms of Use are an Agreement between you, Healthcare Innovation Technologies Inc., a Delaware corporation, the owner of the App (“<b>us</b>” or “<b>VeriCardia</b>”) and Ocean Heart Group Limited Liability Company, a New Jersey limited liability company (the “<b>Ocean Heart Group</b>”), the entity which provides the Services.</p>	<p><b>BY USING THE APP AND SERVICES YOU AGREE TO THESE TERMS OF USE. IF YOU DO NOT AGREE, DO NOT USE THE APP OR SERVICES.</b></p>
<p>THESE TERMS OF USE REQUIRE THE USE OF ARBITRATION TO RESOLVE DISPUTES AND ALSO LIMIT THE REMEDIES AVAILABLE TO YOU IN THE EVENT OF A DISPUTE. BY ACCEPTING THESE TERMS, YOU ARE WAIVING THE RIGHT TO A TRIAL BY JURY OR TO PARTICIPATE IN ANY CLASS ACTION OR REPRESENTATIVE PROCEEDING (SEE ARBITRATION AGREEMENT BELOW).</p>	<p><b>IN CASE OF ANY DISAGREEMENT, YOU WILL HAVE TO ARBITRATE WHICH IS AN OUT-OF-COURT WAY TO SOLVE DISPUTES. YOU WILL NOT BE ALLOWED TO GO TO COURT OR JOIN A CLASS (GROUP) LAWSUIT.</b></p>
<p>The VeriCardia Privacy Policy available in the App and at <a href="http://www.vericardia.com/privacypolicy">www.vericardia.com/privacypolicy</a> (the “<b>Privacy Policy</b>”) is a part of these Terms of Use. Please read the Privacy Policy carefully – it contains a description of our privacy practices and policies, including how we collect and handle your personal information. By using the App or Services, you are also accepting the Privacy Policy.</p>	<p><b>PLEASE READ OUR PRIVACY POLICY – IT IS A PART OF THESE TERMS AND YOU MUST AGREE TO IT AS WELL.</b></p>
<p><b>NEVER DISREGARD PROFESSIONAL MEDICAL ADVICE OR DELAY IN SEEKING IT BECAUSE OF INFORMATION PROVIDED TO YOU THROUGH THE APP. IN CASE OF A LIFE-THREATENING OR EMERGENCY MEDICAL SITUATION, IMMEDIATELY CALL 911.</b></p>	
<p><b>1. YOUR ACCOUNT</b></p>	

<p>To access the Services you are required to create an account on the App (the “<b>Account</b>”) and provide some basic information to us about yourself including your name, surname, gender, date of birth, and, optionally, your phone number. Accurate and complete registration information is required to use the App.</p>	
<p>By creating an account on the App, you represent that you are over 18 years old and that you are a resident of New York or New Jersey (each a “<b>Covered State</b>”). Cardiologists are only licensed to provide the Services in the Covered States and if you are not located in a Covered State you may not use the App or Services.</p>	<p><b>TO USE THE VERICARDIA APP YOU HAVE TO BE OVER 18 YEARS OLD AND A RESIDENT OF THE FOLLOWING STATES:</b></p> <ul style="list-style-type: none"> <li>▪ <b>New York</b></li> <li>▪ <b>New Jersey</b></li> </ul>
<p>You shall not be entitled to a refund if you misrepresent your state of residency by accepting these Terms.</p>	<p><b>YOU HAVE NO RIGHT FOR A REFUND IN CASE YOU ACCESS THE SERVICES BY MAKING A FALSE CLAIM IN THAT REGARD.</b></p>
<p>You are solely responsible for the security of your password and for any use of your Account, including any access to personal information in your Account. If you suspect unauthorized use of your Account, change your password immediately.</p>	<p><b>YOU ARE RESPONSIBLE FOR YOUR PASSWORD AND INFORMATION ON YOUR ACCOUNT.</b></p>
<p>Allowing any other person to use your identity to use the App is not permitted. You may use the Services for personal, but not for commercial purposes. Companies or other organizations may not become registered users or use the App through individual users.</p>	<p><b>ONLY YOU CAN USE THE APP AND YOU CAN’T MAKE MONEY OF IT. COMPANIES ARE PROHIBITED FROM USING THE APP.</b></p>
<p>You represent that all information you provide on the App relates to you and is current, complete, and accurate. You agree to update and maintain such information on the App to ensure that it is true, accurate, current and complete at all times.</p>	<p><b>YOU MUST KEEP YOUR INFORMATION UP TO DATE.</b></p>
<p>We reserve the right to revoke or deactivate your Account at any time, in which case you will be granted a refund for already purchased Services. You may terminate your Account at any time by selecting to remove your account in the settings of the App, however, no refund shall be granted in that case for any prepaid Services.</p>	<p><b>WE CAN SHUT DOWN YOUR ACCOUNT AT ANY TIME. IF THIS HAPPENS, YOU WILL GET A REFUND IF YOU HAVE PREPAID FOR THE SERVICES. YOU CAN ALSO SHUT IT DOWN AT ANY TIME, BUT NO REFUND WILL BE GIVEN.</b></p>
<p>Your use of the App must comply with all applicable federal and state laws, regulations, and ordinances. You may not access the App or Services in any manner that could damage,</p>	<p><b>PLEASE DON’T BREAK THE LAW OR MEDDLE WITH THE APP.</b></p>

<p>disable, overburden, or impair them, or interfere with any other person’s use and enjoyment.</p>	
<p><b>2. THE SERVICES</b></p> <p>The Services on the App include virtual ECG reviews (the “ECG Reviews”) and online <u>scheduling</u> of consultations (the “Online Consultations”) provided by board-certified cardiologists contracted by Ocean Heart Group to provide the Services (the “Cardiologist(s)”).</p>	<p><b>YOU CAN GET AN ECG REVIEW OR ONLINE CONSULTATION THROUGH THE APP.</b></p>
<p>Vericardia is a company, not a doctor, and does not practice medicine and does not participate in or interfere with the practice of medicine by Cardiologists on the App.</p>	<p><b>VERICARDIA IS NOT A DOCTOR. AS FAR AS THE ECG READINGS GO, YOU INTERACT ONLY WITH OCEAN HEART GROUP AND THE CARDIOLOGISTS.</b></p>
<p>The ECG reviews can be only based on one-lead ECG readings generated by popular wearable devices (the “ECGs”), and NOT professional-grade ECGs. This means that they will never replace an in-person visit or a diagnosis based on an actual ECG, please read Section 3 below for details.</p>	<p><b>THE ECGS ANALYZED BY THE APP ARE LIMITED TO READINGS GENERATED BY YOUR APPLE WATCH OR ANOTHER WEARABLE. IT IS NOT THE SAME AS, AND WILL NEVER REPLACE, AN IN-PERSON DOCTOR VISIT AND A COMMERCIAL-GRADE ECG. SEE SECTION 3 FOR DETAILS.</b></p>
<p>The App is designed to be used with common sense, and in connection with the advice of your doctor or healthcare provider. Reliance on the App or Services is solely at your own risk. We cannot guarantee that the Services will help you achieve any specific goals or results.</p>	<p><b>YOU AGREE TO NOT RELY ON THE INFORMATION PROVIDED TO YOU THROUGH THE APP. THIS IS NOT A TOOL TO BE RELIED ON FOR YOUR HEART ISSUES. ALWAYS CONSULT WITH YOUR DOCTOR.</b></p>
<p>You understand and agree that VeriCardia, Ocean Heart Group and Cardiologists are not responsible for disconnections or connection quality issues you may experience using the App as a result of your device’s internet connectivity or the poor quality of the devices you use to generate and submit your ECG.</p>	<p><b>YOU ARE RESPONSIBLE FOR MAKING SURE THAT YOUR CONNECTION IS FINE AND THE WEARABLE YOU USE FUNCTIONS PROPERLY WHEN GENERATING AND SUBMITTING YOUR ECG.</b></p>
<p><b>3. LIMITATIONS OF SERVICES</b></p> <p>You understand that Services provided through the App are limited due to their remote nature. You agree that the information received by you via ECG Reviews is limited. The</p>	<p><b>THE SERVICES AND INFORMATION PROVIDED TO YOU THROUGH THE APP ARE</b></p>

<p>Services are not a substitute for medical advice, diagnosis, treatment, or in-person care from your physician, and should not be used to treat any medical condition.</p> <p>YOU UNDERSTAND THAT THE ECG REVIEW PROVIDED THROUGH THE APP IS LIMITED BECAUSE IT IS PERFORMED REMOTELY AND IS BASED ON A SINGLE-LEAD ECG AND NOT A 12-LEAD ECG THAT IS THE STANDARD TEST PERFORMED BY CARDIOLOGISTS IN-PERSON.</p>	<p><b>VERY LIMITED BECAUSE THE CARDIOLOGISTS CAN'T SEE YOU, HAVE NO DETAILED INFORMATION ABOUT YOU, AND THE QUALITY OF THE ECG GENERATED BY YOUR WEARABLE IS ACTUALLY VERY POOR. IT MAY BE CALLED ECG, BUT IT IS NOT COMPARABLE TO THE ECG GENERATED AT YOUR DOCTOR'S OFFICE.</b></p>
<p>You understand and agree that the Cardiologist who submits your ECG Review is neither your primary care physician nor your cardiologist, and you agree not to use the App as a substitute for interactions with your primary care physician, cardiologist or health insurance provider.</p>	<p><b>THE SERVICES CANNOT BE USED AS A SUBSTITUTE FOR IN-PERSON MEDICAL SERVICES.</b></p>
<p>In case, based on your activity on the App, we decide that you may require in-person or emergency care instead of virtual care, we may suspend your right to use the App or the Services, effective immediately. You understand that if your medical condition warrants emergency help, Cardiologists will direct you to the nearest local hospital emergency department or emergency room.</p>	<p><b>IF OUR CARDIOLOGIST THINKS THAT YOU ARE IN A HEALTH-THREATENING SITUATION, WE MAY END THE ONLINE CONSULTATION AND ASK YOU TO CALL 911.</b></p>
<p>You agree that you do not have a right to expect, demand, or to receive any particular prescription or lab test when using the App.</p>	<p><b>YOU CANNOT GET A PRESCRIPTION OR LAB TEST VIA VERICARDIA.</b></p>
<p><b>4. TELEMEDICINE</b></p> <p>By accepting these Terms of Use you are entering into an agreement with Ocean Heart Group which shall be the provider of ECG reviews and Online Consultations to you through the App. By using the Services, you are entering into a physician – patient relationship with a Cardiologist associated with Ocean Heart Group that personally performs the ECG Review or conducts an Online Consultation.</p>	<p><b>THE ECG REVIEWS AND ONLINE CONSULTATIONS ARE PROVIDED BY OCEAN HEART GROUP AND CARDIOLOGISTS.</b></p>
<p>You are solely responsible for the accuracy of medical information you provide on the App, including information related to ECG and symptoms. You understand that the quality and accuracy of the Services depend on the information provided by you and that your failure to provide full and accurate information may result in inaccurate Services.</p>	<p><b>THE MORE INFORMATION YOU PROVIDE, THE MORE LIKELY IT IS THAT YOUR ECG REPORT WILL BE ACCURATE AND ONLINE CONSULTATION ON POINT.</b></p>
<p>You understand and agree that the Cardiologists are only providing minor non-emergency medical services with respect</p>	<p><b>VERICARDIA IS AN APP ENABLING CARDIOLOGISTS TO</b></p>

to the Services and you represent to Ocean Heart Group that you have a primary care physician.

**CONVENIENTLY ANALYZE ECGS FOR YOUR CONVENIENCE AND CURIOSITY. ONLINE CONSULTATIONS ARE SUPPOSED TO HELP YOU ANALYZE YOUR CURRENT SITUATION WHEN WAITING FOR AN APPOINTMENT WITH YOUR DOCTOR. CONTINUE SEEING AND RELYING ON YOUR DOCTOR'S ADVICE.**

**5. YOUR DEVICES**

You understand and agree that the availability of the Services to you and the quality of the Services depend directly on the accuracy of medical information, including ECG reports, that you provide on the App.

You may use the App obtained from Apple Store or Google Play on a mobile device that you own or control. You understand that your device may limit the functionality of the App.

You are responsible for the accuracy of information, including ECG reports, provided by you through the App. You understand that different devices offer different quality of ECG reports and you are responsible for ensuring the quality of ECG reports you provide to us through the App.

You understand that the Services might not be available to you if you are unable to provide accurate medical information, including accurate, sufficient, and high-quality ECGs.

**YOU ARE RESPONSIBLE FOR YOUR USE OF ANY DEVICE, INCLUDING MOBILE DEVICES AND WEARABLES. IF THE ECG OR INFORMATION YOU PROVIDE IS FAULTY, OF POOR QUALITY, OR IS PRODUCED BY A WEARABLE THAT IS NOT DESIGNED FOR IT, WE WILL NOT BE ABLE TO PROVIDE SERVICES TO YOU AND ANY SERVICE PROVIDED OR ECG REPORT GENERATED MAY BE OF POOR QUALITY.**

You represent and warrant that you will use all your devices and wearables in compliance with manufacturers' instructions, manuals and terms of use. You understand that your improper use of such devices or your use of poor-quality devices may prevent us from providing Services to you or will render the Services inaccurate or incorrect.

**FOLLOW THE INSTRUCTIONS AND TERMS OF YOUR WEARABLES. USE ONLY THE DEVICES COMPATIBLE WITH VERICARDIA.**

**6. PAYMENT FOR SERVICES**

You understand that the Services are not covered by your health insurance and are not a substitute for health insurance. The App is designed for use independent of health insurance as an out-of-pocket cost service.

**WE DO NOT ACCEPT INSURANCE COVERAGE. YOU MUST PAY FOR THE SERVICES OUT-OF-POCKET.**

You agree to pay all fees and charges to your Account in accordance with the terms of our fees, charges, and billing in

**VERICARDIA IS A PAID APP. TO RECEIVE THE SERVICES YOU**

<p>effect at the time a fee or charge is due and payable. You authorize us to immediately charge your credit card or other payment method provided by you for all fees and charges due and payable, and you agree that no additional notice or consent is required.</p> <p>We reserve the right to determine pricing for the Services. We may change the fees for any feature of the Services, including additional fees or charges. At our sole discretion we may make promotional offers with different features and different pricing to any of our users. These promotional offers may not apply to you.</p>	<p><b>WILL BE REQUIRED TO PAY A FEE WITH YOUR DEBIT OR CREDIT CARD.</b></p>
<p>We will charge you a fee and all applicable taxes for each purchase of our services (the “Fee”). You can purchase a single ECG review or a ECG review package. The scope of each package will be communicated to you in the App prior to the Purchase. Fee for all Services must be paid in advance. You authorize us to charge the Fee in accordance with payment methods provided by you on the App.</p> <p>Vericardia is an operator of the App and collects the Fee for Services on behalf of Ocean Heart Group.</p>	<p><b>YOU MUST PAY IN ADVANCE FOR THE ECG REVIEW.</b></p>
<p><b>7. NO REFUNDS</b></p> <p>There is no refund for cancelling the Service prior to its completion, regardless of the reason, whether it due to your dissatisfaction with Vericardia or decision not to use the Services.</p>	<p><b>THERE ARE NO REFUNDS. ALSO, THERE ARE NO REFUNDS FOR THE SERVICE PURCHASED BUT NOT USED BEFORE DEADLINE.</b></p>
<p>Once the Fee is paid, the right to use the Service is not permanent. Upon payment of the Fee, you shall be entitled to a Service for thirty (30) days after the payment date in case of a single ECG review purchased and one hundred eighty (180) days after the payment date in case of a purchase of a package of multiple ECG reviews, upon which period the right to receive the Service will expire and no refund will be due. If you purchase a Service, your expiration date for all previously prepaid Services will be extended by either thirty (30) or one hundred eighty (180) days, depending on whether single ECG review or a package was purchased.</p> <p>Vericardia is an operator of the App and collects the Fee for Services on behalf of Ocean Heart Group.</p>	<p><b>ONCE PAID, YOU HAVE YOU HAVE 30 DAYS (OR 180 DAYS IF YOU PURCHASED A SERVICE PACKAGE) TO REQUEST THE ECG REVIEW.</b></p>
<p><b>DISCRETIONARY FREE CREDIT</b></p> <p>In the event the file with ECG you sent is distorted or corrupted making it impossible or unduly burdensome to</p>	<p><b>IF THERE IS SOMETHING WRONG WITH THE FILE YOU SENT, WE WILL NOT GIVE YOU A REFUND, BUT MAY GIVE YOU</b></p>

<p>repair it and read the ECG, we may grant you a free credit for an additional ECG review in place of the credits you spent on sending the distorted or corrupted file.</p>	<p><b>FREE CREDIT TO SEND A CORRECTED FILE.</b></p>
<p><b>DISCRETIONARY DISCOUNT</b></p> <p>In the event the file you send is not a single-lead ECG and thus the format required by these Terms of Use, you will not be eligible for a refund. However, you will receive a free credit to upload an ECG file, and the price you paid for the Service will be credited towards the cost of a telemedicine appointment with a board-certified cardiologist.</p>	<p><b>IF YOU SEND A FILE THERE IS NOTHING WRONG WITH BUT IT'S NOT THE REQUIRED FORMAT - SINGLE-LEAD ECG, WE MAY GIVE YOU FREE CREDIT TO SEND A CORRECT FILE AND A DISCOUNT IN THE SAME AMOUNT FOR OUR TELEMEDICINE APPOINTMENT.</b></p>
<p><b>8. YOUR RIGHTS AND OBLIGATIONS</b></p> <p>You have the right to withhold or withdraw your consent to any particular Service at any time without affecting the right to future Services. You have the right to inspect all medical information transmitted through the App, as well as the name of the Cardiologist providing the Services, and receive copies of this information for a reasonable fee in accordance with our Privacy Policy. You have the right to the confidentiality of your medical information.</p> <p>You understand that there are risks associated with the Services, including: (i) loss of records due to failure of electronic equipment; (ii) loss of power or other technical failures resulting in loss of communication; and (iii) invasion of electronic records by outsiders (hackers).</p>	
<p><b>9. OWNERSHIP OF CONTENT</b></p> <p>When you use the App or the Services, you do so under a license from us. Subject to your complete and ongoing compliance with these Terms of Use, VeriCardia grants you, solely for your personal, non-commercial use, a limited, non-exclusive, non-transferable, non-sublicensable, revocable license to: (a) install and use one object code copy of the App obtained from a legitimate marketplace on a mobile device that you own or control; and (b) access and use the Services. All rights not expressly granted to you in these Terms of Use are reserved and retained by VeriCardia or its licensors, suppliers, publishers, rights holders, or other content providers.</p> <p>You may not use the App for any commercial purpose and you may not give this license away to any third party. All right, title, and interest in and to the App and Services,</p>	<p><b>CONTENT ON THE APP BELONGS TO US – DO NOT COPY OR STEAL IT.</b></p>

together with all related intellectual property rights are the property of VeriCardia or our affiliates, excluding your rights under applicable law to any information or content related to ECG Reviews.

You agree not to infringe our copyrights, trademarks, trade Secrets, patents, or other intellectual property rights.

You agree not to access, attempt to access, or use our data without our permission. Except and solely to the extent such restriction is impermissible under applicable law, you may not: (a) reproduce, distribute or publicly display the content of the App or Services; (b) make modifications to the App or Services; or (c) interfere with or circumvent any feature of the App, including any security or access control mechanism.

Although we attempt to ensure the integrity and accuracy of the App, we make no representations, warranties or guarantees whatsoever as to the correctness or accuracy of the content on the App. It is possible that the App could include typographical errors, inaccuracies or other errors, and that unauthorized additions, deletions, and alterations could be made to the App by third parties. In the event that an inaccuracy arises, please inform us so that it can be corrected. Information contained on the App may be changed or updated without notice.

## **10. COMMUNICATION**

When you install the App on your device, you authorize us to provide information to your device which you will receive based on your device's security settings. You are responsible for how the App is used on your device, including any communication from us through your device. You may agree to receive push notifications (messages an app sends you on your mobile device when the app is not being used) from us.

We may send you emails concerning our products and services, as well as those of third parties. You may opt out of promotional emails by following the unsubscribe instructions provided in such emails.

We may send you text (SMS) messages to the phone number you provide to us during registration. These messages may include operational messages about your use of the Services, as well as marketing messages.

You agree that we may send you content containing your limited personal information by email, SMS, text, and/or mobile push notifications. This content may contain protected health information under HIPAA, including information

**YOU CAN CONTROL THE WAYS WE COMMUNICATE WITH YOU AND PROVIDE INFORMATION TO YOU THROUGH THE APP. OUR COMMUNICATIONS TO YOU MAY INCLUDE YOUR PERSONAL INFORMATION.**



<p>related to conditions, treatments, and medications, which we will not reveal in the titles of messages or emails to protect your confidentiality. You understand and agree that by opting to receive such content, you are expressly opting into receiving your own protected health information by email, SMS/text, or mobile push notifications. Such communications from the App are not encrypted. By using the App, you release us from any liability arising from or related to any interception or unauthorized access to such communications.</p> <p>You may contact us by email at <a href="mailto:info@vericardia.com">info@vericardia.com</a></p>	
<p><b>11. TERMINATION</b></p> <p>If you violate any of these Terms of Use, your right to use the App or the Services will automatically terminate, and you will have to immediately destroy any copies you have made of any portion of the App or Services.</p> <p>We retain the right to modify or discontinue the Services at any time (including by limiting or discontinuing certain features of the App), temporarily or permanently, without notice to you upon being notified of your alleged violation of these Terms of Use, until clarification. We will have no liability whatsoever on account of any change to the Services or any suspension or termination of your access to or use of the Services.</p> <p>Upon termination of your use of the App, your license rights will terminate, and you must immediately cease all use of the Services. You will no longer be authorized to access your account or the Services. You must pay us any unpaid amounts for Services due prior to termination. All payment obligations accrued prior to termination and sections of these Terms of Use regarding ownership, indemnities, disclaimer of warranties, limitations on liability, and the Arbitration Agreement will survive.</p>	<p><b>IF YOU VIOLATE THESE TERMS OF USE, WE WILL SUSPEND YOUR ACCOUNT. WE MAY SUSPEND THE SERVICES AT ANY TIME.</b></p>
<p><b>12. EXCLUSION OF WARRANTIES</b></p> <p>THE APP AND SERVICES ARE PROVIDED “AS IS” AND ON AN “AS AVAILABLE” BASIS WITHOUT WARRANTY OR CONDITION OF ANY KIND, EITHER EXPRESS OR IMPLIED. NEITHER WE, OCEAN HEART GROUP, CARDIOLOGISTS, NOR ANY OF OUR LICENSORS MAKE ANY EXPRESS WARRANTIES, AND WE AND EACH OF THEM DISCLAIMS ALL IMPLIED WARRANTIES, INCLUDING THE IMPLIED WARRANTIES OF ACCURACY, MERCHANTABILITY,</p>	<p><b>VERICARDIA, CARDIOLOGISTS AND OCEAN HEART GROUP DO NOT PROVIDE ANY WARRANTIES FOR THE SERVICES.</b></p>

FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT.

NEITHER WE, OCEAN HEART GROUP, CARDIOLOGISTS, NOR ANY OF OUR LICENSORS MAKE ANY WARRANTY THAT CONTENT OR SERVICES SATISFY GOVERNMENT REGULATIONS.. THE APP AND SERVICES WERE DEVELOPED FOR USE IN CERTAIN STATES OF THE UNITED STATES, AND NEITHER WE NOR ANY OF OUR LICENSORS MAKE ANY REPRESENTATION CONCERNING THE APP OR SERVICES WHEN USED IN THE NON-COVERED STATES OR ANY OTHER COUNTRY.

NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED BY YOU FROM THE APP, OR ANY MATERIALS OR CONTENT AVAILABLE THROUGH THE APP, WILL CREATE ANY WARRANTY THAT IS NOT EXPRESSLY STATED IN THESE TERMS.

Specifically, and without limiting the foregoing, we, our licensors, and our suppliers, make no representations or warranties about: (i) the accuracy, reliability, completeness, currentness, or timeliness of the content provided on or through the App; or (ii) regulations requiring disclosure of information on prescription drug products or the approval or compliance of any software tools with the App. Any location data accessed via the App may be inaccurate or incomplete and any use of such data is at your own risk.

### **13. LIMITATION OF LIABILITY**

VERICARDIA, OCEAN HEART GROUP AND CARDIOLOGISTS ARE NOT RESPONSIBLE FOR ANY DAMAGE THAT MAY RESULT FROM YOUR USE OF THE APP OR THE SERVICES. YOU UNDERSTAND AND AGREE THAT YOU USE ANY PORTION OF THE SERVICES AT YOUR OWN DISCRETION AND RISK, AND THAT NEITHER VERICARDIA NOR OCEAN HEART GROUP ARE RESPONSIBLE FOR ANY DAMAGE TO YOUR PROPERTY OR ANY LOSS OF DATA, INCLUDING SUBMISSIONS.

To the fullest extent permitted by law, in no event will VeriCardia, Ocean Heart Group, or Cardiologists, or their licensors, suppliers, or any third parties mentioned on the App be liable for any personal injury, including death, attributable to or caused by your use or misuse of the App. Remedies under these Terms of Use are exclusive and are limited to those expressly provided for in these Terms of Use. You

**YOU USE THE APP AND SERVICES AT YOUR OWN RISK. VERICARDIA, OCEAN HEART GROUP, AND CARDIOLOGISTS SHALL HAVE NO LIABILITY TO YOU FOR DAMAGES CAUSED BY YOUR USE OF THE APP AND/OR SERVICES.**

<p>expressly agree that Cardiologists are third party beneficiaries under these Terms of Use and may enforce the rights hereunder, including limitation of liability rights.</p> <p>NEITHER WE, OCEAN HEART GROUP, CARDIOLOGISTS, NOR ANY OF OUR LICENSORS MAY BE HELD LIABLE UNDER THIS AGREEMENT FOR ANY DAMAGES OTHER THAN DIRECT DAMAGES, EVEN IF WE KNOW OR SHOULD KNOW THAT OTHER DAMAGES ARE POSSIBLE, OR THAT DIRECT DAMAGES ARE NOT A SATISFACTORY REMEDY. THESE LIMITATIONS APPLY TO YOU ONLY TO THE EXTENT THEY ARE LAWFUL IN YOUR JURISDICTION. EXCEPT AS PROVIDED IN THE ARBITRATION AGREEMENT, NEITHER US, CARDIOLOGISTS, NOR ANY OF OUR LICENSORS MAY BE HELD LIABLE UNDER THIS AGREEMENT TO ANY USER FOR ANY CLAIMS (IN AGGREGATE OVER ALL TIME) FOR MORE THAN THE FEES PAID BY SUCH USER TO VERICARDIA OVER THE COURSE OF THE SIX (6) MONTHS IMMEDIATELY PRIOR TO THE INCIDENT CAUSING THE ALLEGED DAMAGES.</p>	
<p><b>14. INDEMNIFICATION</b></p> <p>You agree to defend, indemnify, and hold harmless VeriCardia, Ocean Heart Group, affiliates, licensors, and service providers thereof, and its and their respective officers, directors, employees, contractors, agents, licensors, suppliers, successors, and assigns, including Cardiologists, from and against any claims, liabilities, damages, judgments, awards, losses, costs, expenses, or fees (including reasonable attorneys' fees) arising out of or relating to your violation of these Terms of Use or your use of the App and/or Services, including, but not limited to, your use of the App's content other than as expressly authorized in these Terms of Use, or your use of any information obtained from the App.</p>	<p><b>IF ANYBODY SEEKS TO RECOVER ANY SUMS FROM US BECAUSE OF YOUR IMPROPER USE OF THE APP OR SERVICES, YOU WILL BE SOLELY RESPONSIBLE TO PAY ANY SUCH SUMS.</b></p>
<p><b>15. RIGHT TO MODIFY</b></p> <p>We retain the right, at sole discretion, to implement new elements as part of and/or ancillary to the App, including changes that may affect the previous mode of operation of the App.</p> <p>In connection with any modification of the App, we may automatically download software updates on your device from time to time with the intention of improving, enhancing,</p>	<p><b>WE MAY CHANGE OR UPDATE THE APP, SERVICES OR THESE TERMS OF USE AT ANY TIME.</b></p>

repairing and/or further developing the App. In certain circumstances (e.g., security risks), you may be required to install the update to be able to continue using the App. In all cases, you agree to permit us to deliver such updates to you and you agree to receive them as a part of your use of the App.

We may amend and/or otherwise modify these Terms of Use at any time to appropriately represent our current policies. We will notify you of any changes to these Terms of Use by sending a notice to the email address you provided to us during registration. Any such revisions will take effect one week after the posting. You understand and agree that your continued access or use of the App after such change signifies your acceptance of the updated or modified Terms of Use.

## **16. GENERAL TERMS**

These Terms of Use together with other agreements referenced herein (including our Privacy Policy), are the entire agreement between you, Ocean Heart Group and us relating to the App and Services. Your use of the Services is subject to all additional terms, policies, rules, or guidelines applicable to the Services or certain feature of the Services that we may post on the App.

We may assign these Terms of Use at any time without notice or your consent.

If we choose not to enforce any provision of these Terms of Use, we retain the right to enforce it in the future. This means that the failure to enforce any provision of these Terms of Use does not constitute a waiver of that provision.

If any provision in these Terms of Use is found to be unenforceable, that provision and any related provisions will be interpreted to best accomplish the unenforceable provision's essential purpose.

This agreement is governed by law of the State of New Jersey, excluding any choice-of-law rules. ANY DISPUTE RELATING TO THIS AGREEMENT WILL BE RESOLVED IN ACCORDANCE WITH THE ARBITRATION AGREEMENT (SEE ARBITRATION AGREEMENT BELOW). Nothing in these Terms of Use limits either party's ability to seek equitable relief.

IF YOU ARE DISSATISFIED WITH THE APP OR SERVICES, YOUR SOLE AND EXCLUSIVE REMEDY IS TO DISCONTINUE ACCESSING AND USING THE APP.

We are under no obligation to provide support for the Services. In instances where we may offer support, the support will be subject to published policies.

#### 17. ARBITRATION AGREEMENT

These Terms of Use require the use of arbitration to resolve disputes and also limits the remedies available to you in the event of a dispute. Most concerns can be resolved quickly by contacting our support department at [support@vericardia.com](mailto:support@vericardia.com) or [info@oceanheartgroup.com](mailto:info@oceanheartgroup.com). In the unlikely event that we are unable to resolve a legitimate legal complaint, we each agree to resolve disputes through final and binding arbitration or small claims instead of in courts of general jurisdiction. YOU UNDERSTAND AND AGREE THAT, BY ENTERING INTO THESE TERMS OF USE, YOU, VERICARDIA, OCEAN HEART GROUP, AND CARDIOLOGISTS ARE EACH WAIVING THE RIGHT TO A TRIAL BY JURY OR TO PARTICIPATE IN A CLASS ACTION.

This Arbitration Agreement (the “**Arbitration Agreement**”) is an inseparable part of these Terms of Use.

Before filing a claim against Vericardia and Ocean Heart Group, you agree to make a good faith effort to try to resolve any dispute informally by contacting [legal@vericardia.com](mailto:legal@vericardia.com) or [legal@oceanheartgroup.com](mailto:legal@oceanheartgroup.com) and responding promptly to any related communications. If a dispute is not resolved within 30 days of initial submission, you or VeriCardia or Ocean Heart Group may bring a formal arbitration proceeding.

Any arbitration proceedings shall be conducted by the American Arbitration Association (“AAA”) under its rules and procedures applicable at that time, including the AAA’s Supplementary Procedures for Consumer-Related Disputes (to the extent applicable), as modified by our Arbitration Agreement. You may review those rules and procedures, and obtain a form for initiating arbitration proceedings at the AAA’s website. The AAA Rules and filing forms are available online at [www.adr.org](http://www.adr.org), by calling the AAA at 1-800-778-7879, or by contacting us. Arbitration shall be held in the State of New Jersey or at another mutually agreed location. If the reasonable value of the relief sought is \$10,000 or less, either of us may elect to have the arbitration conducted by telephone or based solely on written submissions, which election shall be binding on us subject to the arbitrator's discretion to require an in-person hearing. Attendance at an

**YOU AGREE TO RESOLVE ALL DISPUTES BY WAY OF ARBITRATION, WHICH IS A CONFIDENTIAL ALTERNATIVE TO COURT PROCEEDING. YOU WAIVE (LOSE) YOUR RIGHT TO A TRIAL BY JURY AND TO FILE A CLASS (GROUP) ACTION.**

in-person hearing may be made by telephone by you and/or us, unless the arbitrator requires otherwise.

Notwithstanding the foregoing, nothing in this Arbitration Agreement will be deemed to waive, preclude, or otherwise limit the right of either party to: (a) bring an individual action in small claims court; (b) pursue an enforcement action through the applicable federal, state, or local agency if that action is available; (c) seek injunctive relief in a court of law in aid of arbitration; or (d) to file suit in a court of law to address an intellectual property infringement claim.

A party who intends to seek arbitration must first send to the other, by certified mail, a written notice of dispute (“**Notice**”). The Notice to VeriCardia should be addressed to: [legal@vericardia.com](mailto:legal@vericardia.com). The Notice to Ocean Heart Group should be addressed to: [legal@oceanheartgroup.com](mailto:legal@oceanheartgroup.com). The Notice must (a) describe the nature and basis of the claim or dispute; and (b) set forth the specific relief sought and the specific applicable legal basis for the requested relief (“**Demand**”). You agree to make good faith efforts to resolve the claim directly, however, if we do not reach an agreement to do so within 30 days after the Notice of Arbitration is received, you or VeriCardia may commence an arbitration proceeding. All arbitration proceedings between the parties will be confidential unless otherwise agreed by the parties in writing.

If you do not wish to resolve disputes by binding arbitration, you may opt out of this Arbitration Agreement within 30 days after the date that you agree to these Terms of Use by sending a letter to [legal@vericardia.com](mailto:legal@vericardia.com) that specifies: your full legal name, email address associated with your account, and a statement that you wish to opt out of this Arbitration Agreement.

YOU, OCEAN HEART GROUP AND VERICARDIA AGREE, AS PART OF THE ARBITRATION AGREEMENT, THAT EACH OF US MAY BRING CLAIMS AGAINST THE OTHER ONLY ON AN INDIVIDUAL BASIS AND NOT AS PART OF ANY PURPORTED CLASS OR REPRESENTATIVE ACTION OR PROCEEDING. WE REFER TO THIS AS THE “PROHIBITION OF CLASS AND REPRESENTATIVE ACTIONS”. UNLESS BOTH YOU AND US AGREE OTHERWISE, THE ARBITRATOR MAY NOT CONSOLIDATE OR JOIN YOUR OR OUR CLAIM WITH ANOTHER PERSON’S OR PARTY’S CLAIM, AND MAY NOT OTHERWISE PRESIDE OVER ANY FORM OF A CONSOLIDATED, REPRESENTATIVE OR CLASS

PROCEEDING. THE ARBITRATOR MAY ONLY AWARD RELIEF (INCLUDING MONETARY, INJUNCTIVE, AND DECLARATORY RELIEF) IN FAVOR OF THE INDIVIDUAL PARTY SEEKING RELIEF AND ONLY TO THE EXTENT NECESSARY TO PROVIDE RELIEF NECESSITATED BY THAT PARTY'S INDIVIDUAL CLAIM(S).

Except with respect to the Prohibition of Class and Representative Actions, if a court decides that any part of this Arbitration Agreement is invalid or unenforceable, the other parts of this Arbitration Agreement shall continue to apply. If a court decides that the Prohibition of Class and Representative Actions is invalid or unenforceable, then the entire Arbitration Agreement shall be null and void.

You agree that regardless of any statute or law to the contrary or the applicable dispute resolution process, any claim or cause of action you may have arising out of or related to use of the App or Services or otherwise under these Terms of Use must be filed within one (1) year after such claim or cause of action arose or you hereby agree to be forever barred from bringing such claims.