

## Resonea Terms of Service

Effective March 5, 2021

This Resonea Terms of Service (this “**Agreement**”) constitutes a legally binding contract between Resonea, Inc., a Delaware C-corporation with an address of 11445 E. Via Linda, Suite 2, #224, Scottsdale, AZ 85259 (“**Resonea**,” “**Company**,” “**we**,” “**us**,” “**our**”) and you with respect to your use of our services, application program interfaces, websites, or mobile applications including the mobile application DROWZLE™, DROWZLE PRO, the GetDrowzle.com website, and Sleep Well/Live Well™ (collectively, the “**Service**”). More information about the Service may be found at [www.resonea.com](http://www.resonea.com).

It is important that you carefully read and understand the terms and conditions of this Agreement. BY ACCESSING OR USING OUR SERVICE, YOU ARE CONSENTING TO BE BOUND BY THE TERMS AND CONDITIONS OF THIS AGREEMENT. IF YOU DO NOT AGREE TO ALL OF THE TERMS AND CONDITIONS OF THIS AGREEMENT, DO NOT ACCESS OR USE OUR SERVICE.

In order to access other portions of the Service, you must first register or link an account (“**Account**”). BY USING THE SERVICE, OR BY INDICATING YOUR ASSENT TO THIS AGREEMENT BY REGISTERING YOUR ACCOUNT, CLICKING “I ACCEPT” OR ANY SIMILAR MECHANISM, YOU ARE CONSENTING TO BE BOUND BY THE TERMS AND CONDITIONS OF THIS AGREEMENT. IF YOU DO NOT AGREE TO ALL OF THE TERMS AND CONDITIONS OF THIS AGREEMENT, DO NOT ACCESS OR USE THE SERVICE OR REGISTER AN ACCOUNT.

If you access or use the Service or register an Account on behalf of a company, principal, or other entity, you represent that you have authority to bind such entity and its affiliates to this Agreement and that it is fully binding on them. In such case, the term “you,” as used in this Agreement, will refer to such entity and its affiliates. If you do not have authority, you may not access or use the Service. Be advised that this Agreement contains disclaimers of warranties and limitations on liability that may be applicable to you.

If you have entered into a services agreement with us, you may permit your employees, agents, or contractors (“**Authorized End-Users**” as further defined in the services agreement) to use the Services, subject to the Authorized End-User’s assent to this Agreement.

**Notice Regarding Dispute Resolution: This Agreement contains provisions that govern how claims you and Resonea have against each other are resolved (see Section 11 (Limitation of Liability), Section 17 (Dispute Resolution), and Section 18 (Choice of Law and Forum) below). It also contains an agreement to arbitrate, which will, with limited exception, require you to submit claims you have against us to binding and final arbitration, unless you opt-out of the agreement to arbitrate in accordance with Section 17(D). Unless you opt-out: (A) you will only be permitted to pursue claims against Resonea on an individual basis, not as part of any class or representative action or proceeding and (B) you will only be permitted to seek relief (including monetary, injunctive, and declaratory relief) on an individual basis.**

### 1. Changes to this Agreement

Resonea reserves the right to, at any time, with or without cause:

- change the terms and conditions of this Agreement;
- change the Service, including eliminating or discontinuing any service or other feature of the Service; and

- deny or terminate your use of and/or access to the Service.

We will notify you of any material changes to the terms and conditions of this Agreement or to any service or other feature of the Service. You must accept such changes in order to continue to use and access the Service. If you do not accept such changes, your use and/or access to the Service will be terminated.

## **2. Use of the Service**

Before using the Service, you may need to register with DROWZLE or DROWZLE PRO and create an Account. We reserve the right to decline to provide the Service to any person for any or no reason. If and when you register with or provide information to us, you agree to: (a) provide accurate, current, and complete information as prompted (including your e-mail address) and (b) maintain and update your information (including your e-mail address) to keep it accurate, current, and complete. You acknowledge that, if any information provided by you is untrue, inaccurate, not current, or incomplete, we reserve the right to terminate this Agreement and your use of the Service. By providing DROWZLE or DROWZLE PRO with your email address or other contact information, you consent to our use of this information to send you Service-related notices and other administrative notices, including any notices required by law.

In order to access certain features of the Services, we require you to provide certain health-related information when you register your Account. This information may include your age, height, weight and any other information that is marked as “mandatory” or some other similar designation during your Account registration process. If you do not wish to provide this information to Resonea, do not provide this information to Resonea and you will not be permitted to access certain features of the Services.

You are solely responsible for the activity that occurs on your Account. You must keep your Account credentials (including username and password) secure at all times. You may not share your Account with any third parties without Resonea’s prior written consent unless such third party has separately entered an agreement with Resonea permitting it to access your Account. You must notify Resonea immediately of any breach or suspected breach of security or unauthorized use of your Account. Resonea will not be liable for any losses caused by any unauthorized use of your Account.

You represent and warrant that you have the full right, power, and authority to enter into and perform this Agreement without the consent or approval of any third party. You agree not to misuse the Service and acknowledge that Resonea will not be liable for any misuse of any Service.

## **3. Rules Governing Your Use of the Service**

You may not use the Service, or assist or encourage any other party, to engage in any of the following prohibited activities:

- Copying, framing or mirroring any part of the Service;
- Accessing the Service for purposes of monitoring its availability, performance or functionality;
- Permitting any third party to access the Service;
- Using, copying, modifying, creating a derivative work of, reverse engineering, decompiling or otherwise attempting to extract the source code of the software underlying the Service or any part thereof, unless expressly permitted or required by law, and in any case, without providing prior written notice to Resonea;
- Publishing, transmitting, distributing or storing content, material, information or data that: (a) is illegal, obscene, defamatory, threatening, harassing, abusive, or hateful or that advocates violence; (b) is harmful to or interferes with the Service or any third party’s networks, equipment, applications, services or websites (e.g., viruses, worms, Trojan horses, etc.); (c) infringes, dilutes,

misappropriates or otherwise violates any privacy, intellectual property, publicity or other personal rights including, without limitation, copyrights, patents, trademarks, trade secrets or other proprietary information (including unauthorized use of domain names); or (d) is fraudulent or contains false, deceptive or misleading statements, claims or representations (such as “phishing”);

- Attempting to disrupt, degrade, impair or violate the integrity or security of the Service or the computers, services, Accounts or networks of any other party (including, without limitation, “hacking,” “denial of service” attacks, etc.), including any activity that typically precedes attempts to breach security such as scanning, probing or other testing or vulnerability assessment activity, or engaging in or permitting any network or hosting activity that results in the blacklisting or other blockage of Resonea internet protocol space;
- Avoiding payment of incurring charges or fees payable by you with respect to the Service;
- Distributing, or disclosing any part of the Service in any medium, including without limitation by any automated or non-automated “scraping”;
- Using any automated system, including, without limitation, “robots,” “spiders,” “offline readers,” etc., to access the Service in a manner that sends more request messages to Resonea than a human can reasonably produce in the same period of time by using a conventional web browser;
- Taking any action that imposes, or may impose, at our sole discretion, an unreasonable or disproportionately large load on our infrastructure;
- Collecting or harvesting any personally identifiable information, including Account names and information about users of the Service, from the Service;
- Using the Service for any commercial solicitation purposes;
- Accessing any content on the Service through any technology or means other than those provided or authorized by the Service;
- Submitting to the Service or to Resonea any personally identifiable information, except as necessary for the establishment and operation of your Account;
- Submitting to the Service or to Resonea any information that may be protected from disclosure by applicable law;
- Bypassing the measures we may use to prevent or restrict access to the Service, including, without limitation, features that prevent or restrict use or copying of any content or enforce limitations on use of the Service or the content therein;
- Violating any applicable law, statute, ordinance or regulation, or encouraging any conduct that could constitute a criminal offense or give rise to civil liability;
- Removing any copyright, trademark or other proprietary rights notices contained in or on the Service; and/or
- Executing any form of network monitoring or running a network analyzer or packet sniffer or other technology to intercept, decode, mine or display any packets used to communicate between the Service’s servers or any data not intended for you.

Improper use of the Service may result in termination of your access to and use of the Service and/or civil or criminal liabilities.

#### **4. Intellectual Property**

A. Your Rights. Subject to the terms and conditions of this Agreement (including any restrictions on any applicable authorization or order form), you are hereby granted a non-exclusive, non-transferable, non-sublicensable, and revocable license to access and use the Service solely for your own internal use. Resonea reserves all rights not expressly granted herein in the Service. Except as expressly set forth herein, no rights or licenses are granted to you under this Agreement, whether by implication, estoppel or otherwise.

B. Company Rights.

- **User Content.** You hereby expressly grant, and you represent and warrant that you have all rights necessary to grant, to Resonea and its licensors and suppliers a royalty-free, fully paid-up, sublicensable (through multiple tiers of sublicensees), transferable, perpetual, irrevocable, non-exclusive, worldwide license to use, distribute, modify, reproduce, publically display, publically perform and create derivative works of any information, data, materials, photographs, images or content you provide to Resonea (“**User Content**”) for the purposes of (a) providing the Service, or (b) developing, maintaining, supporting or improving the Service. You agree that Resonea and its licensors and suppliers may store User Content in order to provide the Service. Resonea and its licensors and suppliers aggregates User Content with other data and also collects technical information and data about your use of the Service. You expressly agree that Resonea and its licensors and suppliers may use any aggregated and anonymized data for any purpose during or after the term of this Agreement, including, without limitation, to develop and improve the Service or otherwise develop and improve Resonea services and products.
- **Feedback and Improvements.** You may choose to, or we may invite you to, submit comments, suggestions, feedback or ideas about the Service, including, without limitation, about how to improve the Service or our products (“**Feedback**”). By submitting any Feedback, you agree that your disclosure is gratuitous, unsolicited and without restriction. We are free to use the Feedback without any additional compensation to you, and/or to disclose the Feedback on a non-confidential basis or otherwise to anyone. Resonea and its licensors and suppliers will be free to use, disclose, reproduce, license, distribute, modify, perform, display and exploit the Feedback you provide, without any restriction of any kind on account of intellectual property rights or otherwise. You further acknowledge that, by acceptance of your submission, Resonea does not waive any rights to use similar or related ideas previously known to Resonea, or developed by its employees, or obtained from sources other than you.

C. Proprietary Rights. The Service is owned and operated by Resonea, and the Service (and any intellectual property and other rights relating thereto) is and will remain the property of Resonea and its licensors and suppliers. The Service is protected by U.S. and international copyright, trademark and other laws, and you acknowledge that these rights are valid and enforceable. The Service may be used solely (a) to the extent permitted in this Agreement or (b) as expressly authorized in writing by authorized representatives of Resonea or, if so indicated in writing by Resonea, by its licensors or suppliers. Use of the Service for any other purpose is strictly prohibited. You acknowledge that you do not acquire any ownership rights by using the Service. The trademarks, logos and service marks displayed on the Service (collectively, the “**Company Trademarks**”) are the registered and unregistered trademarks of Resonea, Resonea’s licensors and suppliers and/or others. Nothing contained in this Agreement or the Service should be construed as granting, by implication, estoppel, or otherwise, any license or right to use any Company Trademark(s) without the express written permission of Resonea, Resonea’s licensors or suppliers or the third-party owner of any such Company Trademark. Subject to the rights granted to Resonea in this Agreement, as between you and Resonea, you retain all right, title and interest in and to your User Content.

## 5. Third-Party Links

The Service may contain links to other websites for your convenience. We do not control the linked websites or the content provided through such websites, and we have not reviewed, in their entirety, such websites. Your use of linked websites is subject to the privacy policies and terms of use established by the specific linked website, and we disclaim all liability for such use. The fact that we offer such links does not indicate any approval or endorsement by us of any linked website or any material contained on any linked website, and we disclaim any such approval or endorsement.

## 6. No Use by Children Under 13

You hereby affirm that you are over the age of thirteen (13), as the Service is not intended for children under 13. If you are under 13 years of age, then you may not use the Service. You further affirm that you are fully able and competent to enter into the terms, conditions, obligations, affirmations, representations and warranties set forth in this Agreement, and to abide by and comply with this Agreement.

## **7. Privacy Policy**

Your use of the Service shall be subject to Resonea's Privacy Policy (the "**Privacy Policy**") located here: [www.resonea.com](http://www.resonea.com). You expressly consent to the practices disclosed in the Privacy Policy. Resonea reserves the right to modify the Privacy Policy in its discretion from time to time. Continued use of the Service after any such changes shall constitute your consent to such changes.

## **8. Term & Termination**

This Agreement is effective from the date on which you first access the Service or submit any User Content to Resonea, whichever is earlier, and shall remain effective until terminated in accordance with its terms. Resonea may immediately terminate this Agreement, and/or your access to and use of the Service, or any portion thereof, at any time and for any reason, with or without cause, without prior notice. Resonea may also terminate this Agreement immediately if you fail to comply with any term or provision of this Agreement. Upon termination of this Agreement by either party, your right to use the Service shall immediately cease, and you shall cease all use of the Service. Upon termination or expiration of this Agreement for any reason, Sections 1, 2, 3, 4(B), 4(C), 4(D), 4(E), and 5–21 shall survive.

We reserve the right at any time and from time to time to suspend, modify or discontinue, temporarily or permanently, the Service, or any part or portion thereof, for any reason and with or without notice to you. You agree that we shall not be liable to you or to any third party for any modification, suspension or discontinuance of the Service, or any part or portion thereof. Nothing in this Agreement shall be construed to obligate Resonea to maintain and support the Service, or any part or portion thereof, during the term of this Agreement.

## **9. Third Party Service Providers**

We may use third-party service providers to assist in providing certain Services with or without notice to you (each, a "**Third Party Service Provider**"), including board certified sleep providers to interpret the Services, including the DROWZLE Pro reports, and provide consultation to you. We may also change Third Party Service Providers or may provide a Service without the assistance of such third party. You consent and authorize us to delegate the authorizations you provide to us to our Third Party Service Provider(s) as we deem necessary or desirable to provide the applicable Service to you. You agree that the terms and conditions of this Agreement, including any of the other terms, conditions, warranty disclaimers and liability disclaimers incorporated into this Agreement, inure to the benefit of such Third Party Service Providers and such Third Party Service Providers are deemed to be third party beneficiaries of this Agreement, including any other terms, conditions, warranty disclaimers and liability disclaimers incorporated into this Agreement. You also agree that all references to us within this Agreement and any incorporated terms are also deemed to include, where applicable, our agents, such as the Third Party Service Providers. To protect the privacy and security of your personal information, Third Party Service Providers will only be authorized to use or maintain your personal information solely in accordance with our privacy policy.

## **10. Disclaimers**

THE SERVICE IS PROVIDED “AS IS” AND “WITH ALL FAULTS” AND WITHOUT WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, AND ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, IMPLIED WARRANTIES OF TITLE, NON-INFRINGEMENT, ACCURACY, COMPLETENESS, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, ANY WARRANTIES THAT MAY ARISE FROM COURSE OF DEALING, COURSE OF PERFORMANCE, OR USAGE OF TRADE, AND ANY WARRANTIES THAT THE SERVICE IS CURRENT AND/OR UP-TO-DATE ARE HEREBY EXPRESSLY DISCLAIMED TO THE FULLEST EXTENT PERMISSIBLE UNDER APPLICABLE LAW. RESONEA DOES NOT PROVIDE MEDICAL ADVICE AND YOUR USE OF THE SERVICE OR YOUR PURCHASE OF ANY PRODUCTS OR SERVICES THROUGH THE SERVICE DOES NOT CREATE A PHYSICIAN-PATIENT RELATIONSHIP BETWEEN US.

THERE IS NO WARRANTY, REPRESENTATION, OR GUARANTEE THAT THE SERVICE, OR YOUR USE OF THE SERVICE, WILL BE UNINTERRUPTED, COMPLETE, ACCURATE, CURRENT, RELIABLE, ERROR-FREE, SECURE, OR THAT ANY PROBLEMS WILL BE CORRECTED, OR THAT THE SERVICE, OR ANY INFORMATION, SOFTWARE, OR OTHER MATERIAL ACCESSIBLE FROM THE SERVICE, IS FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS. WE DO NOT WARRANT, GUARANTEE, OR MAKE ANY REPRESENTATION REGARDING THE USE OF, OR THE RESULTS OF THE USE OF, THE SERVICE AND YOU ASSUME ALL RESPONSIBILITY AND RISK FOR YOUR USE OF THE SERVICE, AND YOUR RELIANCE THEREON.

## **11. Limitation of Liability**

NOTWITHSTANDING THE FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY OF ANY KIND, NEITHER RESONEA NOR ANY OF ITS LICENSORS, SPONSORS, AGENTS, SUCCESSORS, OR ASSIGNS, NOR OUR OR THEIR DIRECTORS, OFFICERS, EMPLOYEES, CONSULTANTS, OR OTHER REPRESENTATIVES, ARE RESPONSIBLE OR LIABLE FOR ANY INCIDENTAL, CONSEQUENTIAL, SPECIAL, EXEMPLARY, PUNITIVE OR OTHER INDIRECT DAMAGES (INCLUDING, WITHOUT LIMITATION, ANY LOSS OF PROFITS, LOST SAVINGS, OR LOSS OF DATA) UNDER ANY CONTRACT, NEGLIGENCE, STRICT LIABILITY, OR OTHER THEORY ARISING OUT OF OR RELATING IN ANY MANNER TO THE SERVICE, AND/OR ANY LINKED WEBSITE, WHETHER OR NOT WE HAVE BEEN INFORMED OF THE POSSIBILITY OF SUCH DAMAGES OR LIABILITIES. RESONEA’S MAXIMUM AGGREGATE LIABILITY TO YOU SHALL NOT EXCEED FIFTY DOLLARS (\$50). NEITHER RESONEA NOR ANY OF ITS LICENSORS, SPONSORS, AGENTS, SUCCESSORS, OR ASSIGNS, NOR OUR OR THEIR DIRECTORS, OFFICERS, EMPLOYEES, CONSULTANTS, OR OTHER REPRESENTATIVES WILL HAVE ANY LIABILITY TO YOU FOR ANY DAMAGES, EXPENSES, OR OTHER LIABILITY INCURRED BY YOU AS A RESULT OF ANY INACCURACY, INCOMPLETENESS, OR MISREPRESENTATION OF ANY INFORMATION, CONTENT, POSTINGS, OR SUBMISSIONS PROVIDED OR POSTED ON THE SERVICE BY THIRD PARTIES.

SOME STATES DO NOT ALLOW THE EXCLUSION OR LIMITATION OF CERTAIN WARRANTIES AND/OR LIABILITIES, SO CERTAIN OF THE ABOVE LIMITATIONS OR EXCLUSIONS MAY NOT APPLY TO YOU.

## **12. No Medical Advice**

The content on our website is designed to provide a general overview of our products and Services and is presented for informational purposes. The Services may contain general information relating to various medical conditions and their treatment. Such information is provided for informational purposes and is not meant to substitute for advice provided by qualified medical professionals. YOU SHOULD ALWAYS CONSULT A QUALIFIED MEDICAL PROFESSIONAL REGARDING YOUR QUALIFYING CONDITION OR SUSPECTED QUALIFYING CONDITION. The Services are not intended to provide medical advice. Except as otherwise indicated in this Agreement, users of the Services should be aware that products under development described herein have not been found to be safe or effective by any regulatory agency and are not approved for any use outside of clinical trials. Certain Services or devices, including the DROWZLE (sold under the brand DROWZLE PRO) are prescription devices that should be only be used under the guidance of a medical provider.

### **13. FDA Indications for Use of DROWZLE PRO**

DROWZLE (sold under the brand DROWZLE PRO) is indicated to record a patient's respiratory pattern during sleep for the purpose of prescreening patients for obstructive sleep apnea (OSA) syndrome. The device is designed for use in home-screening of adults (21 and over) with suspected possible sleep breathing disorders. Results are used to assist the healthcare professional in determining the need for further diagnosis and evaluation.

The system is not intended as a substitute for full polysomnography when additional parameters such as sleep stages, limb movements, or EEG activity are required.

### **14. Indemnification**

You (and also any third party for whom you operate an Account on the Service) agree to fully indemnify, defend (at Resonea's request), and hold Resonea, our licensors, suppliers, agents, successors, and assigns, and our and their directors, officers, employees, consultants and other representatives (collectively, the "*Company Parties*") harmless from and against any and all claims, damages, losses, costs (including reasonable attorneys' fees) and other expenses that arise directly or indirectly out of or from: (a) your actual or alleged breach of this Agreement; (b) any allegation that any User Content or other materials you submit to us or transmit to the Service infringe, misappropriate, or otherwise violate the copyright, patent, trademark, trade secret or other intellectual property or other rights of any third party; (c) your activities in connection with the Service or other websites to which the Service is linked; (d) your negligence or willful misconduct; (e) your use of the results, content, data, or information provided via the Service; (f) any service or product offered by you in connection with or related to your use of the Service; and/or (g) your violation of any laws, rules, regulations, codes, statutes, ordinances or orders of any governmental and quasi-governmental authorities, including, without limitation, all regulatory, administrative and legislative authorities.

### **15. Jurisdictional Issues**

Resonea makes no representation that the Service operates (or is legally permitted to operate) in all geographic areas or that the Service is appropriate or available for use in other locations. Accessing the Service from territories where the Service or any content or functionality of the Service or portion thereof is illegal is expressly prohibited. If you choose to access the Service, you agree and acknowledge that you do so on your own initiative and at your own risk, and that you are solely responsible for compliance with all applicable laws. The Service is operated from the United States. If you are located outside of the United States and choose to use the Service or provide your User Content to us, your User Content will be transferred, processed, and stored in the United States. U.S. privacy laws may not be as protective as those

in your jurisdiction. Your agreement to the terms of this Agreement followed by your submission of your User Content in connection with the Service represents your agreement to this practice. If you do not want your User Content transferred to or processed or stored in the United States, you should not use the Service.

## 16. Notice for California Users

Under California Civil Code Section 1789.3, California Service users are entitled to the following specific consumer rights notice: The Complaint Assistance Unit of the Division of Consumer Services of the California Department of Consumer Affairs may be contacted in writing at 1625 N. Market Blvd., Suite N 112, Sacramento, California 95834, or by telephone at (800) 952-5210.

## 17. Dispute Resolution

A. Arbitration. The parties shall use their best efforts to settle any dispute, claim, question or disagreement directly through good-faith negotiations, which shall be a precondition to either party initiating a lawsuit or arbitration. Except for disputes relating to Resonea's intellectual property (such as trademarks, trade dress, domain names, trade secrets, copyrights, and patents) or if you opt out of this agreement to arbitrate, all claims arising out of or relating to this Agreement and your use of the Service shall be finally settled by binding arbitration administered by the American Arbitration Association in accordance with the provisions of its Commercial Arbitration Rules and of its supplementary procedures for consumer-related disputes, excluding any rules or procedures governing or permitting class actions. The arbitrator, and not any court or agency, shall have exclusive authority to resolve all disputes arising out of or relating to this Agreement, including, but not limited to, any claim that all or any part of this Agreement is void or voidable. The arbitrator shall be empowered to grant whatever relief would be available in a court; provided, however, that the arbitrator will not have authority to award damages, remedies, or awards that conflict with this Agreement. The arbitrator's award shall be binding on the parties and may be entered as a judgment in any court of competent jurisdiction. To the extent the filing fee for the arbitration exceeds the cost of filing a lawsuit, Resonea will pay the additional cost. You also agree not to participate in claims brought in a private attorney general or representative capacity, or consolidated claims involving another person's account, if Resonea is a party to the proceeding. This dispute resolution provision will be governed by the Federal Arbitration Act.

The parties understand that, in some instances, the costs of arbitration could exceed the costs of litigation and that the right to discovery may be more limited in arbitration than in court.

B. Class-Action Waiver. The parties further agree that any arbitration shall be conducted in their individual capacities only, and not as a class action or other representative action. If any court or arbitrator determines that the class-action waiver set forth in this section is void or unenforceable for any reason, or that an arbitration can proceed on a class basis, then the arbitration provision set forth above shall be deemed null and void in its entirety and the parties shall be deemed to have not agreed to arbitrate disputes.

C. Exception—Litigation of Small-Claims-Court Claims. Notwithstanding the parties' decision to resolve all disputes through arbitration, either party may also seek relief in a small claims court for disputes or claims within the scope of that court's jurisdiction.

D. Thirty-Day Right to Opt Out. You have the right to opt out and not be bound by the arbitration- and class-action-waiver provisions set forth in this section by sending written notice of your decision to opt out by email to [info@resonea.com](mailto:info@resonea.com), or by letter to the following address:

Resonea, Inc.  
11445 E. Via Linda, Suite 2, #224



Scottsdale, AZ 85259

The notice must be sent within 30 days of registering to use the Service; otherwise, you shall be bound to arbitrate disputes in accordance with this Agreement. If you opt out of these arbitration provisions, Resonea also will not be bound by them. In addition, if you elect to opt out of these arbitration provisions, Resonea may terminate your use of the Service.

E. Time Limitation on Claims. You agree that any claim you may have arising out of or related to your relationship with Resonea and this Agreement must be filed within one year after such claim arose; otherwise, your claim is permanently barred.

## **18. Choice of Law and Forum**

This Agreement and your relationship with Resonea Parties shall be governed by, and construed and interpreted in accordance with, the laws of the State of Arizona without regard to its conflict of laws principles AND WILL SPECIFICALLY NOT BE GOVERNED BY THE UNITED NATIONS CONVENTIONS ON CONTRACTS FOR THE INTERNATIONAL SALE OF GOODS, IF OTHERWISE APPLICABLE. Subject to Section 17, the parties irrevocably consent to bring any action to enforce this Agreement in the federal or state courts located in Maricopa County, Arizona and you consent to the exclusive jurisdiction of the federal or state courts located in Maricopa County, Arizona.

## **19. U.S. Government Restricted Rights**

The Service shall be deemed “commercial computer software” pursuant to DFAR Section 227.7202 and FAR Section 12.212, as applicable. Any use, modification, reproduction release, performance, display or disclosure of the Service by the U.S. Government will be governed solely by the terms of this Agreement and will be prohibited except to the extent expressly permitted by the terms of this Agreement.

## **20. Apple**

The provisions in this Section 20 will apply if you access or download the Service using the Apple App Store.

This Agreement is between you and Resonea only, and not with Apple, Inc. (“*Apple*”). Apple is not responsible for the Service nor your use or possession thereof. The license grant in Section 4 is conditioned on you accessing and using the service solely on an Apple device that was sold to you or that you control and in accordance with the terms and conditions of the App Store Terms of Service as of the last updated date found here: <http://www.apple.com/legal/internet-services/itunes/us/terms.html> (“*App Store Terms of Service*”). In case of a conflict between this Agreement and the App Store Terms of Service, the terms of the App Store Terms of Service shall prevail.

You acknowledge that Apple has no obligation whatsoever to furnish any maintenance and support services with respect to the Service.

Without limiting any of Resonea’s rights herein, Apple is not responsible for addressing any claims of you or a third party relating to the Service or your possession and/or use of the Service, including, but not limited to: (i) product liability claims; (ii) any claim that the Service fails to conform to any applicable legal or regulatory requirement; (iii) claims arising under consumer protection or similar legislation; or (iv) any third party claim that the Service or your possession and use of the Service infringes a third party’s intellectual property rights. Apple will not be responsible for either the investigation, defense, settlement or discharge of any such claims.

Apple and Apple's subsidiaries are third party beneficiaries of this Agreement, and, upon your acceptance of the terms and conditions of this Agreement, Apple will have the right to enforce this Agreement against you as a third party beneficiary thereof.

## **21. Miscellaneous**

If any provision of this Agreement is held to be invalid or unenforceable by a court of competent jurisdiction, then the remaining provisions will nevertheless remain in full force and effect, and such provision will be reformed in a manner to effectuate the original intent of the parties as closely as possible and remain enforceable. If such reformation is not possible in a manner that is enforceable, then such term will be severed from the remaining terms, and the remaining terms will remain in effect. This is the entire Agreement between you and us relating to the subject matter herein and supersedes any and all prior or contemporaneous written or oral agreements between you and us with respect to such subject matter. This Agreement may not be changed, waived or modified except by a written instrument signed by Resonea. If any employee of Resonea offers to modify this Agreement, he or she is not acting as an agent for Resonea or speaking on Resonea's behalf. You may not rely, and should not act in reliance on, any statement or communication from an employee of Resonea or anyone else purporting to act on Resonea's behalf. This Agreement is between you and Resonea; there are no third-party beneficiaries. You are responsible for compliance with all applicable laws and regulations, including, but not limited to, United States export and import regulations. You may not use the Service if you are a resident of a country embargoed by the United States or are a foreign person or entity blocked or denied by the United States government. No agency, partnership, joint venture, employee-employer or franchiser-franchisee relationship is intended or created by this Agreement. Neither this Agreement nor any right, obligation or remedy hereunder is assignable, transferable, delegable or sublicensable by you except with Resonea's prior written consent, and any attempted assignment, transfer, delegation or sublicense shall be null and void. Resonea may assign, transfer or delegate this Agreement or any right or obligation or remedy hereunder in its sole discretion. No waiver by either party of any breach or default hereunder shall be deemed to be a waiver of any preceding or subsequent breach or default. Except as explicitly stated otherwise, legal notices shall be served on Resonea at info@resonea.com (in the case of Resonea) or to the e-mail address you have designated on your Account (in your case). Notice to you shall be deemed given 24 hours after the e-mail is sent. Any heading, caption or section title contained in this Agreement is inserted only as a matter of convenience, and in no way defines or explains any section or provision hereof.

### **The Service is Operated By**

Resonea, Inc.