

Terms of Use

Updated July 1, 2021

Birdi, Inc. (“**Company**,” “**we**,” or “**us**”) provides access to information through our website accessible at www.birdirx.com (the “**Website**”). In addition to the information available through the Website, we may also provide you the ability to use certain functionalities of the Website or we may provide certain services through the Website, collectively called our “**Services**.”

The following Terms of Use (“**Terms**”) govern your access to and use of our Website and Services.

Acceptance of Terms

Please read these Terms carefully before using or obtaining any Services, information, materials, or products through the Website. By using the Website and Services, you acknowledge and agree that you have read these Terms and that you understand them; that you are at least 18 years old (you may not use the Website or Services unless you are 18 years or older); and that you are a resident of the United States of America and its Territories. Although this website may be accessed by any user worldwide, the Website and Services are intended only for use by United States residents, are presented solely as a service to visitors and subscribers located in the United States of America and its Territories, and therefore may not comply with legal requirements of foreign countries. Users residing outside of the United States and its Territories who access this Website do so at their own risk and are responsible for complying with any of their foreign country’s laws. When using a particular Service through this Website, you may also be subject to any posted guidelines, rules, terms of service, codes of conduct or other contractual provision as noted, and these are included in these Terms. These Terms are a legally binding contract. If you do not agree to any of these Terms, please do not use the Website or the Services.

As new features are added to the Website or legal requirements change, we may modify these Terms. In addition, we may update and change these Terms from time to time. Any changes to these Terms will be communicated through this Website and will be effective 30 days after the date of such update. You are responsible for reviewing these Terms on a regular basis to make sure you are still in agreement to comply with them. The “Updated” date above indicates when these Terms were last changed. If you object to any changes in the Website or Services, your sole recourse is to stop using the Website and Services. By using or accessing the Website and Services after changes have been made to the Website or these Terms, you are agreeing to accept those changes.

Use of the Website and Services

The Website and Services are intended for personal, non-commercial use only. You may only use the Website to view information for which you are authorized and to search for legitimate prescription medication information. You may not use the Website to access any information for which you are not authorized or to facilitate the dispensing of any false or fraudulent prescriptions. You agree not to use the Website for any purpose that is unlawful, illegal, or forbidden by these Terms. You promise that any information about yourself that you voluntarily provide to us will be true, accurate, complete, and current.

We may, at any time and without notice, prohibit access to the Website and Services to any individuals whom we determine are using the Website and Services in a way not permitted under these Terms, or is restricting or prohibiting any other user from using or enjoying the Website and Services, or whose conduct might constitute a criminal offense, result in civil liability, or otherwise violate any applicable local, state, national or international law.

Examples of prohibited uses of the Website and Services include, but are not limited to: (a) sharing of personal medical or prescription information with an unauthorized third party; (b) impersonating any person or entity, or otherwise misrepresenting your affiliation with a person or entity; (c) placement on the Website and Services of any untrue, malicious, fraudulent, harassing, offensive or defamatory material, or any material that is irrelevant to a legitimate use of the Website and Services; (d) introduction of viruses, worms or other programming routines that are intended to disrupt or interfere with the operation of the Website and Services; (e) use any high volume, automated, or electronic means to access the Services (including robots, spiders or scripts); (f) framing or deep-linking to any portion of the Website, placement of pop-up windows over its pages, or otherwise affecting the display of its pages, for any purpose; (g) unauthorized changes to any data or information supplied by the Website or Services; (h) any activity that infringes on the copyright, patent, trademark or other rights of any other person or organization; and (i) any activity that violates local, national, or international law. Any unauthorized entry (commonly referred to as "hacking") into any portion of the Website or Services may constitute a crime under state and/or federal law and users conducting such activity will be subject to prosecution of these violations to the fullest extent permitted by law. In addition, we hereby reserve all of our rights and remedies available under applicable law and anyone using this Website and Services in violation of these Terms will be liable to Company for any and all damages suffered by Company.

Protecting Your Information

You are responsible for maintaining the secrecy of your passwords, login/user ID, and other account information ("**Account Information**"), as well as any correspondence, e-mails, order information, or any other information obtained through the Website. You will be responsible for all use of the Website by you or anyone using your password and login information (with or without your permission). If you have reason to believe that your account is no longer secure (e.g., loss, theft or unauthorized disclosure or use of

your Account Information or computer or mobile device used to access the Website), you must promptly change your Account Information that is affected either through the website or by contacting our customer support center at (877) 668-4987. If you install any software or enable any service that stores information from the Website on any mobile device or computer, it is your responsibility, prior to transfer of such device, to remove your information or otherwise disable access to such software or service, in order to prevent unauthorized access to your information or account. We are not responsible for the security or privacy of any such information under these circumstances, and we are also not responsible for the security of your internet access services provider and you should review their security and privacy policies carefully.

You should keep any correspondence you receive relating to the Website and Services, including your user ID, passwords, other registration information, e-mails, order information, or any other information confidential and in a safe place. If other people have access to your computer, handheld device, user ID or password, or other personal information, they may be able to access information you have obtained from the Website and Services.

Privacy Policy

Your use of the Website and Services and any information you provide while using the Website or Services is subject to our [Privacy Policy](#). By using the Website and Services you consent to the use of your information as outlined in our [Privacy Policy](#).

Third Party Links

We may occasionally provide links to other websites that we do not operate or control and for which we are not responsible (“**Third-Party Websites**”). We provide these links for your reference and convenience but do not endorse these Third-Party Websites or their content. Your interaction with these Third-Party Websites or any third party accessed through the Website is at your own risk and we will have no liability with respect to the acts, omissions, errors, representations, warranties, breaches, or negligence of any such third parties or for any personal injuries, death, property damage, or other damages or expenses resulting from your interactions with these Third-Party Websites or third parties. We do not guarantee the security of any information transmitted to or from the Website or Services to any Third-Party Websites, nor are we responsible for the content, security, or privacy measures of any Third-Party Websites. You should refer to the separate terms of use, privacy policies, and other rules posted on these Third-Party Websites before you use them. You agree not to create a link from any website, including any website controlled by you, to our Website.

Dispute Resolution

By using this Website and Services, you agree to use the dispute resolution procedures set forth herein with respect to any controversy or claim arising out of or relating to

these Terms or the breach of these Terms. Any dispute between you and the us arising out of or in connection with these Terms shall be settled by a binding arbitration in San Diego, California, in accordance with the then-current rules and procedures of Judicial Arbitration and Mediation Services, Inc. (JAMS). The arbitrator shall apply the law in accordance with the laws of the State of California. Judgment on the award rendered by the arbitrator may be entered in any court of competent jurisdiction. You agree that, any provision of law notwithstanding, the arbitrator shall have the authority to award the prevailing party its costs and reasonable attorneys' fees. Any disputes between you and other users of this Website are not the responsibility of Company.

Governing Law: Attorneys' Fees

These Terms shall be governed by and construed in accordance with the laws of the State of California, exclusive of its choice of law rules and matters affecting copyrights, trademarks, and patents under U.S. federal law. In any action to enforce these Terms, the expenses of the arbitration, including reasonable attorney's fees, will be paid for by the party against whom the award of the arbitrator is rendered.

Intellectual Property

The Website and Services are owned and operated by Company and its vendors and suppliers, as applicable, and we and our vendors and suppliers own all of the text, images, software, trademarks, service marks, and other proprietary material contained in the Website ("**Content**"). This Website is protected by federal and international copyright and trademark laws. If no restrictions are displayed, you may print, download, or make copies of materials, including these Terms, from the Website and Services for your own personal and non-commercial use only and any such materials must include all copyright, trademark and other propriety rights or notices included in the Content as presented on the Website. Except as just stated, you may not copy, reproduce, publish, post, transmit, display, store, sell, sublicense, transfer or distribute any Content, or reverse engineer, decompile, disassemble, modify or create derivative works from the Website and Services. Your use of and access to the Website does not grant you any license or right to use any of the marks included on the Website or any of the Content.

If you provide us any feedback, suggestions, testimonials, comments, ideas, ratings, reviews, bug reports, or any similar or related information regarding the Website or Services ("**Feedback**"), you hereby assign to us all rights in the Feedback and agree that we shall have the right to use such Feedback and related information in any manner we deem appropriate. We will treat any Feedback you provide as non-confidential and non-proprietary. If you do not agree with these terms regarding Feedback or want to maintain ownership of any intellectual property contained in any specific Feedback, your sole option is to not submit Feedback to us.

Disclaimer of Warranties

The Services, the Website, all information, Content, materials, and services related to the foregoing are provided "as is" and "as available." To the fullest extent permissible under applicable law, we and our affiliates disclaim all warranties, express or implied, including, title, non-infringement, non-interference, system integration, accuracy of data, trade usage, course of dealing, and course of performance. We and our affiliates make no warranty and expressly disclaim any obligation, that (i) your use of the Website or Services will meet your requirements or be available on an uninterrupted, timely, secure, error-free or virus free basis; (ii) the Content will be up-to-date, complete, comprehensive, accurate, or applicable to your circumstances; (iii) the results that may be obtained from the Website or Services (including prescription history, drug pricing and availability, etc.) will be accurate or reliable; or (iv) the quality of any Services or Content obtained by you through the Website will meet your expectations. Applicable law may not allow the exclusion of certain implied warranties, so the above exclusion may not apply to you.

The download of any material through the Services and/or Website is done at your own discretion and risk. You will be solely responsible for any damage to your computer system or loss of data that may result from the download of any such material or from reliance upon the Website or Services, and you are advised to maintain offline backup copies of all user content.

Other Limitations of Liability

COMPANY DOES NOT ASSUME ANY LIABILITY FOR UNAUTHORIZED OR FRAUDULENT USE OF THE WEBSITE AND SERVICES. BY ACCESSING THE WEBSITE AND SERVICES, YOU AGREE TO HOLD HARMLESS AND WAIVE ALL CLAIMS AGAINST COMPANY AND OUR RELATED PARTIES REGARDING THE INFORMATION PROVIDED AND YOUR USE OF IT. IN ADDITION, YOU AGREE THAT UNDER NO CIRCUMSTANCES WILL COMPANY OR OUR RELATED PARTIES BE LIABLE TO YOU FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL, PUNITIVE OR EXEMPLARY DAMAGES – EVEN IF WE HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES – OR FOR ANY LOSS OF PROFITS OR REVENUE, INCLUDING LOSS OF SALES, PROFIT, REVENUE, GOODWILL, OR DOWNTIME, (WHETHER ARISING IN TORT, CONTRACT, OR OTHERWISE) REGARDLESS OF OUR NEGLIGENCE OR WHETHER WE KNEW OR SHOULD HAVE KNOWN OF THE POSSIBILITY OF SUCH DAMAGES. OUR ENTIRE LIABILITY AND YOUR EXCLUSIVE REMEDY WITH RESPECT TO ANY DISPUTE OR CLAIM RELATED TO THE WEBSITE AND SERVICES IS YOUR STOPPING YOUR USE OF THE WEBSITE AND SERVICES. THE LIMITATIONS OF LIABILITY PROVIDED IN THIS AGREEMENT INURE TO THE BENEFIT OF COMPANY AND TO ALL OF OUR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES, ATTORNEYS AND AGENTS. BECAUSE SOME STATES DO NOT ALLOW THE EXCLUSION OR LIMITATION OF LIABILITY FOR CONSEQUENTIAL OR INCIDENTAL DAMAGES, IN SUCH STATES LIABILITY IS LIMITED TO THE FULLEST EXTENT PERMITTED BY LAW.

Indemnification

We will notify you of any claim made by a third party for liability or expense arising from your use of the Website and Services, in whole or in part, directly or indirectly. You in turn agree to indemnify, defend, and hold harmless Company and its affiliates, respective officers, directors, employees, contractors, agents, and other related parties for any such claim, including reasonable attorneys' fees.

Medical and Other Advice

The information provided by the Website or Services is not intended as medical, legal, or other professional advice and is for your educational and informational purposes only. This information is not intended as a substitute for consultation with your doctor or other licensed medical professional and should NOT be used to diagnose or treat a health problem. You should consult with your doctor to assist in evaluating the appropriateness of any information provided by the Website and Services. You should never disregard, avoid or delay obtaining medical advice from a licensed professional because of something in the Website or Services. In no event will we be responsible for any decision made or action taken in reliance on the information contained in the Website and Services.

The information in the Website and Services is also not intended as and does not constitute financial or legal advice, and you should consult an appropriate professional for specific advice tailored to your situation.

Term and Termination

These Terms will become effective and binding when you use the Website or Services, when you voluntarily provide any information about yourself to us, or when you indicate your agreement by following any instructions we place on the Website (such as buttons labeled "I Agree") (whichever occurs first). We reserve the right to terminate these Terms, your access to the Website and the Services, or the Website and Services in part or entirely, at any time without notice or liability. Your rights under these Terms will automatically and immediately terminate if you fail to comply with your promises and obligations stated in these Terms. The provisions of the sections on Third Party Links, Intellectual Property, Disclaimer of Warranties, Other Limitations of Liability, Term and Termination, and Additional Terms will survive the termination of these Terms.

Additional Terms

You agree to comply with all laws, rules and regulations that apply to your use of the Website and the Services. If we fail to act with respect to your breach or anyone else's breach of these Terms on any occasion, we are not waiving our right to act with respect to future or similar breaches. If any provision of the Terms are found by a court of competent jurisdiction to be unenforceable or invalid, the Term will be enforced to the

fullest extent permitted, giving effect to the intent and purpose of the unenforceable or invalid provision, and the other Terms shall remain valid and enforceable. The section titles in these Terms are for convenience only and have no legal or contractual effect. The word including means including without limitation. These Terms together with any agreements made a part of these Terms by reference, make up the entire agreement between you and us relating to your use of the Website and Services. You may not assign, delegate, or transfer your rights or obligations under these Terms. We may assign our rights and duties under these Terms without such assignment being considered a change to the Terms and without notice to you. Nothing contained in these Terms will be deemed to constitute either party as the agent or representative of the other party, or both parties as joint venturers or partners for any purpose.