

MotionSense EULA

End User License Agreement

May 29, 2021

1.0 Document Scope

This end user license agreement sets forth the terms and conditions of use (“**Terms of Use**”) and is a binding agreement between you (“**Patient**” or “**you**”) and OrthoSensor, Inc. (“**OrthoSensor**,” “**we**,” “**us**,” and “**our**”). These Terms of Use governs your use of the MotionSense application on the Google Android® and Apple iOS® platforms, (the “**App**”). We assist health care professionals (individually the “**Provider**” and collectively the “**Providers**”) in the provision of secure messaging between the Providers and their Patients. The professional medical services (which are provided by your Provider) and the non-clinical App services (which are provided by Company) are collectively referred to in this Terms of Use as the “**Services**”. The terms “you” and “your” means you, your dependents if any, and any other person accessing your MotionSense Account.

Your acceptance of, and compliance with, these Terms of Use is a condition to your use of the App and Services. By clicking “accept”, you acknowledge that you have read, understand, and accept all terms and conditions contained within these Terms of Use and our Privacy Policy available at <https://orthosensor.com/wp-content/uploads/2021/06/MOTIONSENSE-PRIVACY-POLICY.pdf> If you do not agree to be bound by these terms, you are not authorized to access or use this App or the Services; promptly delete the App.

2.0 Terms

Services Provided – No Medical Care or Advice by OrthoSensor

As an important note, there is no single provider of medical care called “OrthoSensor.” Rather, OrthoSensor offers an online communication platform for Patients to provide rehabilitation and physical motion measurements to Providers via the App.

OrthoSensor does not provide medical advice or care. OrthoSensor contracts with independent, physician-owned medical groups with a network of United States based Providers who provide clinical telehealth services. OrthoSensor provides administrative and business support services to the medical group Providers. The Providers deliver clinical services to their Patients through the App. Providers access patient information through our HIPAA compliant companion website, OrthoLogIQ. Providers are not contracted or employed by OrthoSensor. The Providers, and not OrthoSensor, are responsible for the quality and appropriateness of the care they render to you. OrthoSensor does not provide any legal advice or representations in any way regarding any legal issues associated with advice, information, goods, or services offered by a Provider, including but not limited to any compliance obligations or steps necessary to comply with any state or federal laws and regulations.

The Providers are independent of OrthoSensor and are merely using the App as a way to communicate with you. Any information or advice received from a Provider comes from them alone, and not from OrthoSensor. Your interactions with the Providers via the App are not intended to take the place of your relationship with your regular health care practitioners or primary care physician. Neither OrthoSensor, nor any of its subsidiaries or affiliates or any third party who may promote the App or Service or provide a link to the Service, shall be liable for any professional advice obtained from a Provider via the App or Service, nor any information obtained on the App. OrthoSensor does not recommend or endorse any specific Providers, tests, physicians, medications, products, or procedures. You acknowledge that your reliance on any Providers or information delivered by the

Providers via the App or Service is solely at your own risk and you assume full responsibility for all risks associated herewith.

OrthoSensor does not make any representations or warranties about the training or skill of any Providers who deliver services via the App or Service. You are ultimately responsible for choosing your particular Provider.

The content of the App and the Services, including without limitation, text, copy, audio, video, photographs, illustrations, graphics, and other visuals, is for informational purposes only and does not constitute professional medical advice, diagnosis, treatment, or recommendations of any kind by OrthoSensor. You should always seek the advice of your qualified health care professionals with any questions or concerns you may have regarding your individual needs and any medical conditions. All information provided by OrthoSensor, or in connection with any communications supported by OrthoSensor, is intended to be for general information purposes only, and is in no way intended to create a provider-patient relationship as defined by state or federal law. While OrthoSensor facilitates communications with Providers, OrthoSensor does not provide medical services, and the doctor-patient relationship is between you and your Provider.

Please contact your Provider directly for any questions regarding your care or medical treatment.

Not for Emergencies

IF YOU ARE EXPERIENCING A MEDICAL EMERGENCY, YOU SHOULD DIAL "911" IMMEDIATELY.

OrthoSensor's App and Services are not for medical emergencies or urgent situations. You should not disregard or delay to seek medical advice based on anything that appears or does not appear on the App. If you believe you have an emergency, call 9-1-1 immediately.

You should seek emergency help or follow up care when recommended by a Provider or when otherwise needed. You should continue to consult with your primary provider and other healthcare professionals as recommended. Always seek the advice of a physician or other qualified healthcare provider concerning questions you have regarding a medical condition and before stopping, starting, or modifying any treatment or modification.

Risks of Telehealth Services

Telehealth involves the delivery of healthcare services using electronic communications, information technology or other means between a healthcare provider and a patient who are not in the same physical location. While the provision of health care services using telehealth may offer certain potential benefits, there are also potential risks associated with the use of telehealth. The telehealth services are not a substitute for in-person health care in all cases. In order to use the Service, you will be required to review and agree to an informed consent regarding the use of telehealth (the "**Patient Consent**") that will be provided to you by your Provider prior to your registration on the App. You agree that OrthoSensor is a third-party beneficiary of the Patient Consent and has the right to enforce it against you.

Access to the Services

You should only access our Services if you are one of the following categories of user:

a **Patient**, who has been referred by a charitable organisation or your surgeon, doctor or other healthcare professional to download and use the App as part of your treatment or invited to use the App as part of your involvement in a clinical study or research project; or

a **Provider** who recommends that App to Patients in your capacity as a person responsible (whether as a surgeon, doctor or other healthcare professional) for the medical care and treatment of Patients, and with the permission from those Patients to monitor such activity and other medical data as they may submit to the App in order to inform their care pre-and-post treatment, or as a person administering a clinical study or research project involving consenting App users for medical and device research purposes.

If you are a Patient, you should only use this App if:

Your surgeon, doctor, other healthcare professional has recommended you download and use the App as part of your care and recovery process pre-or-post treatment, or where you have been invited to use the App as part of your involvement in a clinical study or research project, or where you have been referred to the App by a charitable organisation;

You agree to download and use the App in accordance with these terms;

You agree to provide your email address and telephone number to your surgeon, doctor or other healthcare professional responsible for the administration of your treatment, or responsible for the clinical study or research project in which you are participating, and agree that it can be shared with us to the extent necessary to provide you with the Services and as set out in our Privacy Policy; and you acknowledge that the App is intended for use only by persons who are at least 13 years of age. The Children's Online Privacy Protection Act 1998 15 U.S.C. §§ 6501–6506 requires that online service providers which are accessed by children under the age of 13 years old, obtain parental consent before they collect personally identifiable information online from these children. We do not knowingly collect personal data from children under the age of 13 and our Services are not directed at users under the age of 13. A parent, guardian or personal representative may use the Services on behalf of a child under the age of 13. By using the App, you confirm to us that you meet this requirement and that, if you are between the ages of 13 and 18, you have received permission from your parent or guardian before using the App.

You own or control the device on which you access the App: The App may only be downloaded, accessed and used on a device owned or controlled by you and running the relevant operating system for which the App was designed, and you must make sure you have a compatible device which meets all the necessary technical specifications to enable you to download the App you wish to download and to access and use the downloaded App.

You will be assumed to have obtained permission from the owner of any device that is controlled, but not owned, by you to download the App to that device. This would, for example, include your use of the App on devices provided by your employer or borrowed from friends or family. You accept responsibility, in accordance with these terms, for all access to, and use of, the App by you on any device, whether or not it is owned by you.

Your Provider may assist you with downloading the App onto your device and with updating your care plan from time to time on your device. You acknowledge that you are responsible for your own device. You acknowledge that your provision of your personal device to a

Provider is solely at your own risk and you assume full responsibility for all risks associated herewith.

Access to the Services: Internet access is required to fully access our Services. You acknowledge that the service provider for the device to which you download, or on which you access or use the Services may charge for internet access (for example mobile data usage) on that device. You understand and agree that we are not responsible for disconnections, connection quality issues, service interruption or other issues which you may experience when using our Services as a result of any issue with your device's internet connectivity.

We may, from time to time, restrict access to certain features, functions or content of, or services accessible through, the downloaded App.

We cannot and do not guarantee the continuous, uninterrupted or error-free operability of the Services or that the Services will respond at a certain speed (since this depends on a number of factors outside our control).

Your provision of contact and account information to us: you must ensure that any registration details you provide are accurate, current and complete information to create your MotionSense Account ("**Account**"). Where your circumstances change, you must promptly update your information to keep it accurate, current and complete. You must not provide any information that attempts to impersonate another individual, or that is untrue, inaccurate or incomplete.

If you choose, or you are provided with, a log-on ID (such as a username and password or other identifier) for accessing or using the Service, you must treat such information as confidential and must not reveal it to anyone else. You are responsible for all activities that occur under your log-on ID and must notify us immediately of any unauthorised use of which you become aware. We reserve the right to disable any log-on ID, at any time, if in our opinion you have failed to comply with any of the provisions of these terms or our Privacy Policy or if any details you provide for the purposes of registering as a user prove to be false.

You are prohibited from violating or attempting to violate the security of the App, including, without limitation: (a) accessing data not intended for such user or logging onto a server or an account which the user is not authorized to access; (b) attempting to probe, scan, or test the vulnerability of a system or network or to breach security or authentication measures without proper authorization; or (c) accessing or using the App or any portion thereof without authorization, in violation of these Terms of Use or in violation of applicable law.

You may not use any scraper, crawler, spider, robot, or other automated means of any kind to access or copy data on the App, deep-link to any feature or content on the App, bypass our robot exclusion headers, or other measures we may use to prevent or restrict access to the App. Violations of system or network security may result in civil or criminal liability. OrthoSensor may investigate occurrences that may involve such violations and may involve, and cooperate with, law enforcement authorities in prosecuting users who are involved in such violations. You agree not to use any device, software, or routine to interfere or attempt to interfere with the proper working of this App or any activity being conducted on this App.

Electronic Communications: When you use the App or Services, or send e-mails,

messages, and other communications from your desktop or mobile device to us, you are communicating with us electronically. You consent to receive communications from us electronically. You agree that (a) all agreements and consents can be signed electronically and (b) all notices, disclosures, and other communications that we provide to you electronically satisfy any legal requirement that such notices and other communications be in writing. OrthoSensor and your Provider may contact you by telephone, mail, or email to verify your Account information. OrthoSensor and your Provider may request further information from you and you agree to provide such further information to ensure that you have not fraudulently created your Account. If you do not provide this information in the manner requested within 14 days of the request, we reserve the right to suspend, discontinue, or deny your access to and use of the App and the Services until you provide the information to us as requested.

Consent to Receive Calls and Text Messages: By providing your mobile number, you are agreeing to be contacted by or on behalf of OrthoSensor at the mobile number you have provided, including calls and text messages, to receive Service related (e.g., progress tracking, reminders, etc.) messages and communications relating to the App and Services. Message and data rates may apply. For help, reply to our text with the word HELP. To stop receiving text messages reply to our text with the word STOP. We may confirm your opt out by text message. If you subscribe to multiple types of text messages from us, we may unsubscribe you from the service that most recently sent you a message or respond to your STOP message by texting you a request to identify services you wish to stop. Please note, that by withdrawing your consent, some App features and certain Services may no longer be available to you. Keep in mind that if you stop receiving text messages from us you may not receive important and helpful information and reminders about your Services.

CAN-SPAM Act and Telephone Consumer Protection Act Compliance: OrthoSensor and your Provider are committed to being compliant with the Controlling the Assault of Non-Solicited Pornography and Marketing Act ("CAN-SPAM ACT") and the Telephone Consumer Protection Act ("TCPA"). You consent to receive text messages from us as set forth herein. Emails, newsletters, and text messages received from us are intended to fully comply with the CAN-SPAM ACT and the TCPA. In the event you receive an email or text message from us which you do not believe is fully compliant with the CAN-SPAM ACT or the TCPA, please contact us immediately at orthosensorcustomerservice@stryker.com.

We may collect data you submit to the App: If you submit, upload, post, or transmit any health information, medical history, conditions, problems, symptoms, personal information, consent forms, agreements, requests, comments, ideas, suggestions, information, files, videos, images, or other materials to us or our App ("**User Information**"), you agree not to provide any User Information that (a) is false, inaccurate, defamatory, abusive, libelous, unlawful, obscene, threatening, harassing, fraudulent, pornographic, or harmful, or that could encourage criminal or unethical behavior, (b) violates or infringes the privacy, copyright, trademark, trade dress, trade secrets, or intellectual property rights of any person or entity, or (c) contains or transmits a virus or any other harmful component. You agree not to contact other App users through unsolicited e-mail, telephone calls, mailings, or any other method of communication. You represent and warrant to OrthoSensor and your Provider that you have the legal right and authorization to provide all User Information to OrthoSensor and your Provider for use as set forth herein and required by OrthoSensor and your Provider. By using the App or accessing any of our other services, you agree to us collecting and using various information about you and the devices you access and use the Service on, to

improve and to provide any services to you, in accordance with our Privacy Policy, available at <https://orthosensor.com/wp-content/uploads/2021/06/MOTIONSENSE-PRIVACY-POLICY.pdf>, which is hereby incorporated and made a part of these Terms of Use.

OrthoSensor or your Provider may de-identify your information such that it is no longer considered protected health information or personally identifiable information. OrthoSensor or your Provider may disclose, aggregate, sell, or otherwise use such de-identified information to third parties for analytics, research, or other purposes.

You agree not to: (i) access the App or use the Services in any unlawful way or for any unlawful purpose; (ii) post or transmit (1) a message under a false name, or (2) any data, materials, content, or information (including, without limitation, advice, and recommendations) which is (A) libelous, defamatory, obscene, fraudulent, false, or contrary to the ownership or intellectual property rights of any other person, or (B) contains or promotes any virus, worm, Trojan horse, time bomb, malware, or other computer programing or code that is designed or intended to damage, destroy, intercept, download, interfere, manipulate, or otherwise interrupt or expropriate the App or the Services, personal information, software, equipment, servers, data, materials, content, or information or facilitate or promote hacking or similar conduct; (iii) impersonate or misrepresent your identity or falsely state or misrepresent your affiliation with a person or entity; (iv) tamper, hack, spoof, copy, modify, or otherwise corrupt the administration, security, or proper function of the App or the Services; (v) use robots or scripts with the App; (vi) attempt to reverse engineer, reverse assemble, reverse compile, decompile, disassemble, translate, or otherwise alter, defraud, or create false results from any executable code, information on, or received by this App; (vii) to have any antivirus or antispyware software running that is set to override the internet browser's cookies setting; (viii) incorrectly identify the sender of any message transmitted to OrthoSensor; (ix) alter the attribution or origin of electronic mail, messages, or posting; (x) harvest or collect personal health information about any other individual who uses the App or the Services; and (xi) infringe or facilitate infringement on any copyright, patent, trademark, trade secret, or other proprietary, publicity, or privacy rights of any party, including but not limited to, such rights of third parties.

What you are and are not allowed to do

In return for your agreeing to comply with these terms and subject to the following sections, you may retrieve and display content from the App on a computer or mobile device and store the App in electronic form incidentally in the normal course of use on your browser or mobile device.

You may only use the App for non-commercial use (unless expressly granted permission to do otherwise by us) and only in accordance with these terms. You may retrieve and display content from the App on a computer screen or mobile device, print and copy individual pages and, subject to the next section, store such pages in electronic form.

- you are not, and will not be, located in any country that is the subject of a United States Government embargo or that has been designated by the United States Government as a "terrorist supporting" country;
- you are not listed on any United States Government list of prohibited or restricted parties;

- You may not frame or utilize framing techniques to enclose any trademark, logo, or other proprietary information (including images, text, page layout, or form) of OrthoSensor without our express written consent;
- You may not use any meta tags or any other "hidden text" utilizing OrthoSensor's name or trademarks without the express written consent of OrthoSensor; and
- You may not misuse the App or Services.

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Dispute Resolution: We will try to work in good faith to resolve any issue you have with the App, including without limitation, Services provided through the App, if you bring that issue to the attention of our customer service department. However, we realize that there may be rare cases where we may not be able to resolve an issue to a customers satisfaction. You and OrthoSensor agree that any dispute, claim, or controversy arising out of or relating in any way to these Terms of Use or your use of the App, including without limitation, Services provided through the App, shall be determined in accordance with the laws of the State of Florida with exclusive jurisdiction and venue for any claims will in state or federal courts located in and for Broward County, FL.

Indemnification: You agree to defend, indemnify, and hold harmless OrthoSensor and any affiliates from and against any and all rights, demands, losses, liabilities, damages, claims,

causes of action, actions, and suits (no matter whether at law or equity), fees, costs, and attorney's fees of any kind whatsoever arising directly or indirectly out of or in connection with: (i) your use or misuse of the App, Services or any information posted on the App; (ii) your breach of the Terms of Use or Privacy Policy; (iii) the content or subject matter of any information you provide to OrthoSensor or your Provider, or customer service agent; or (iv) any negligent or wrongful act or omission by you in your use or misuse of the App, Services, or any information on the App, including without limitation, infringement of third party intellectual property rights, privacy rights, or negligent or wrongful conduct.

App Support and Contact: All questions and requests relating to App support must be directed to OrthoSensor. To submit a support request, please email us at orthosensorcustomerservice@stryker.com or call us at (800)-354-1231. The Select Third Parties, as defined in the Section "No Liability for Select Third Parties" below, are not responsible for providing support for the application portions of the App and may not be contacted for support. OrthoSensor will use commercially reasonable efforts to respond to questions and provide support. Please note that we may change or remove functionality and other features of the App at any time, without notice.

Modified Devices and Operating Systems: OrthoSensor will have no liability for errors, unreliable operation, or other issues resulting from use of the App on or in connection with rooted or jail broken devices or use on any mobile device that is not in conformance with the manufacturer's original specifications, including, but not limited to, use of modified versions of the operating system (collectively, "**Modified Devices**"). Use of the App on Modified Devices will be at your sole and exclusive risk and liability.

No Liability for Select Third Parties: Your wireless carrier, the manufacturer and retailer of your mobile device, the developer of the operating system for your mobile device, the operator of any application store, marketplace, or similar service through which you obtain the App, and their respective affiliates, suppliers, and licensors (collectively, the "**Select Third Parties**") are not parties to these Terms of Use and they do not own and are not responsible for the App. OrthoSensor, and not any Select Third Parties, is responsible for addressing any claims raised by you or any third party regarding the App or your use or possession thereof, including, but not limited to, claims related to product liability, legal, or regulatory requirements, and consumer protection or similar legislation. You are responsible for complying with all application store and other applicable Select Third Parties' terms and conditions. YOU AGREE: (A) THE SELECT THIRD PARTIES DISCLAIM ALL WARRANTIES, EXPRESS AND IMPLIED, WITH RESPECT TO THE APP, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF NON-INFRINGEMENT, TITLE, MERCHANTABILITY, QUIET ENJOYMENT, QUALITY OF INFORMATION, AND FITNESS FOR A PARTICULAR PURPOSE; (B) IN NO EVENT WILL THE SELECT THIRD PARTIES BE LIABLE TO YOU OR ANY THIRD PARTY FOR ANY DIRECT, INDIRECT, PUNITIVE, EXEMPLARY, INCIDENTAL, SPECIAL, OR CONSEQUENTIAL DAMAGES (WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE) ARISING OUT OF THESE TERMS OF USE OR THE APP, EVEN IF THEY HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR LOSSES; AND (C) IN ANY EVENT, THE MAXIMUM LIABILITY OF ANY SELECT THIRD PARTY FOR ALL CLAIMS (WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE) OF EVERY KIND WILL IN NOT EXCEED FIVE DOLLARS (\$5.00); AND (D) YOU WAIVE ANY AND ALL CLAIMS, NOW KNOWN OR LATER DISCOVERED, THAT YOU MAY HAVE AGAINST THE SELECT THIRD PARTIES ARISING OUT OF THE APP AND THESE TERMS OF USE. THE THIRD PARTIES ARE INTENDED THIRD PARTY BENEFICIARIES OF THESE TERMS OF USE, AND ARE CAPABLE OF

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Term and Termination: The term of Agreement commences when you install the App and will continue in effect until terminated by you or OrthoSensor as set forth in this Section. You may terminate this Agreement by deleting the App and all copies thereof from your mobile device. OrthoSensor may terminate this Agreement at any time without notice if it ceases to support the App, which OrthoSensor may do in its sole discretion. In addition, this Agreement will terminate immediately and automatically without any notice if you violate any of the terms and conditions of this Agreement. Upon termination: (i) all rights granted to you under this Agreement will also terminate; and (ii) you must cease all use of the App and delete all copies of the App from your mobile device. Termination will not limit any of OrthoSensor's rights or remedies at law or in equity.

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