

Upper Health Inc. Platform Provider Agreement

General Terms

Welcome to **Upper Health Inc. (“Upper”)**, a platform for health and wellness providers to connect with and provide services to customers, located at <https://www.upper.health> (the “**Platform**”).

THIS UPPER HEALTH PLATFORM PROVIDER AGREEMENT (THE “**AGREEMENT**”) CONTAINS THE TERMS AND CONDITIONS THAT GOVERN YOUR ACCESS TO AND USE OF THE PLATFORM AND IS AN AGREEMENT BETWEEN YOU OR THE BUSINESS YOU REPRESENT AND UPPER. BY REGISTERING FOR OR USING THE PLATFORM, YOU (ON BEHALF OF YOURSELF OR THE BUSINESS YOU REPRESENT) AGREE TO BE BOUND BY THE TERMS OF THIS AGREEMENT.

As used in this Agreement, “**we,**” “**us,**” and “**Upper**” means Upper Health Inc. and any of its applicable Affiliates, and “**you**” means the applicant (if registering for or using the Platform as an individual), or the business employing the applicant (if registering for or using the Platform as a business) and any of its Affiliates. Capitalized terms have the meanings given to them in this Agreement.

1. **Registration.**

To begin the registration process, you must establish a profile on the Platform. Use of the Platform is limited to parties that can lawfully enter into and form contracts under applicable Law. As part of the application, you must provide us with your (or your business') legal name, address, phone number and e-mail address. You will also be required to provide your payment information, a list of all health and wellness services you will market through the Platform (your “**Services**”), proof of all licenses, qualifications and accreditations required by applicable Law to perform your Services, and proof of requisite insurance connected to your provision of your Services, as well as any other information we may request. Any personal data you provide to us will be handled in accordance with Upper’s [Privacy Policy](#).

2. **Service Fee Payments; Receipt of Sales Proceeds.**

2.1. **Your Services and Service Information.** You will provide accurate and complete Required Service Information for each of your Services and promptly update that information as necessary to ensure it at all times remains accurate and complete. You will also ensure that each of your Services comply with all applicable Laws.

2.2. **Service Listing; Order Processing.** We will enable you to list your Services on the Platform. We may use mechanisms that rate, or allow customers to rate, your Services and your performance as a provider of such Services and Upper may make these ratings and feedback publicly available. We will provide Order Information to you for each order of your Services. We will also receive all Sales Proceeds on your behalf for each of these transactions and will have exclusive rights to do so, and will remit them to you in accordance with these terms.

- 2.3. **Sale and Fulfillment.** You will: (a) offer and sell your Services, in each case in accordance with the terms of the applicable Order Information, this Agreement, and all terms provided by you or us and displayed on the Platform at the time of the order and be solely responsible for and bear all risk for those activities; (b) retrieve Order Information at least once each business day; (c) only cancel Your Transactions as permitted pursuant to your terms and conditions appearing on the Platform at the time of the applicable order or as may be required under this Agreement; and (d) provide to Upper information regarding fulfillment of the purchased Service, in each case as requested by us using the processes designated by us, and we may make any of this information publicly available.
- 2.4. **Service Pricing.** You covenant to list your Services on the Platform at a price that is equal to or lower than the price at which you offer the same Services outside of the Platform, including but not limited to on other similar marketplaces or on your own dedicated commerce platforms. Upper is dedicated to providing its customers with the best health and wellness offerings at prices consistent with their prevalent market rates, and reserves the right, in its sole and absolute discretion, to remove you and your Services from the Platform, and to bar you from further participation on the Platform, in accordance with Section 3 hereto, if you price your Services in a manner inconsistent with this philosophy.
- 2.5. **Cancellations and Refunds.** In the event that you must cancel any of the Services booked by a customer through the Platform, you will promptly calculate and process cancellations, refunds, and adjustments in accordance with this Agreement, and will reimburse said customer directly. Without limiting your obligations, we may in our sole discretion accept, calculate, and process cancellations, refunds, and adjustments for the benefit of customers. We will make any payments to customers in the manner we determine, and you will reimburse us for all amounts we pay.
- 2.6. **Non-Performance.** You are responsible for any non-performance or other mistake or act in connection with the fulfillment of your Services, except to the extent caused by our failure to make available to you Order Information as it was received by us. If we inform you that we have received or initiated a claim of non-performance concerning one of Your Transactions, you will have 30 days to appeal our decision of the claim. If we find that a claim, chargeback, or dispute is your responsibility, you (a) will not take recourse against the customer, and (b) are responsible for reimbursing us in accordance with this Section 2 for the amount paid by the customer (including taxes), and all other fees and expenses associated with the original transaction (such as credit card, bank, payment processing, re-presentment, or penalty fees) and any related chargebacks or refunds, to the extent payable by us.

If we find that any claim, chargeback, or dispute is your responsibility, (i) you will not take recourse against the customer, and (ii) if Upper resolves the claim directly with the customer and does not waive its right of indemnification, you will reimburse us in accordance with this Section 2 to the extent of your responsibility (not to exceed the amount paid by Upper to resolve the claim), including taxes and all other fees and expenses associated with the original transaction (such as credit card, bank, payment processing, re-presentment, or penalty fees) and any related chargebacks or refunds.

- 2.7. **Transaction Fee.** As consideration for allowing you to market your Services on the Platform, Upper will charge a 10% transaction fee (the “**Transaction Fee**”) on each of Your Transactions. Upper reserves the right to increase or decrease the Transaction Fee at any time.
- 2.8. **Remittance of Sales Proceeds & Refunds.** Except as otherwise stated in this Agreement, we will remit to you your available balance on a monthly (or at our option, more frequent) basis. For each remittance, your available balance is equal to any Sales Proceeds not previously remitted to you as of the applicable Remittance Calculation Date (which you will accept as payment in full for Your Transactions), less: (a) Transaction Fees; and (b) any taxes that Upper may be required to remit to a tax authority according to applicable Law.

When you either initially provide or later change your bank account information, the Remittance Calculation Date may be deferred by up to 14 days. If you refund money to a customer in connection with one of Your Transactions, and the refund is routed through us (or our Affiliate), on the next available Remittance Calculation Date we will refund to you the amount of the Transaction Fee paid by you to us attributable to the amount of the customer refund (including refunded taxes only to the extent applicable). We will remit any amounts to be refunded by us pursuant to this subsection from time to time together with the next remittance to be made by us to you.

You are responsible for all of your expenses in connection with this Agreement. To use the Platform, you must provide us with valid credit card information from a credit card or credit cards acceptable by Upper (“**Your Credit Card**”) as well as valid bank account information for a bank account or bank accounts acceptable by Upper (conditions for acceptance may be modified or discontinued by us at any time without notice) (“**Your Bank Account**”). You will use only a name you are authorized to use in connection with the Platform and will update all of the information you provide to us in connection with the Platform as necessary to ensure that it at all times remains accurate, complete, and valid. You authorize us (and will provide us documentation evidencing your authorization upon our request) to verify your information (including any updated information) to obtain credit reports about you from time to time, to obtain credit authorizations from the issuer of Your Credit Card, and to charge Your Credit Card or debit Your Bank Account for any sums payable by you to us (in reimbursement or otherwise). All payments to you will be remitted to Your Bank Account through ACH process or by other means specified by us.

If we determine that your Services or performance thereof may result in chargebacks, claims, disputes, violations of our terms or policies, or other risks to Upper or third parties, then we may in our sole discretion withhold any payments to you for as long as we determine any related risks to Upper or third parties persist. For any amounts that we determine you owe us, we may (a) charge Your Credit Card or any other payment instrument you provide to us; (b) offset any amounts that are payable by you to us (in reimbursement or otherwise) against any payments we may make to you or amounts we may owe you; (c) invoice you for amounts due to us, in which case you will pay the invoiced amounts upon receipt; (d) reverse any credits to Your Bank Account; or (e) collect payment or reimbursement from you by any other lawful means. If we determine that your account—or any other account you have operated—has been used to engage in deceptive, fraudulent, or illegal activity, or to repeatedly

violate our terms or policies, then we may in our sole discretion permanently withhold any payments to you.

As a security measure, we may, but are not required to, impose transaction limits on some or all customers and providers relating to the value of any transaction or disbursement, the cumulative value of all transactions or disbursements during a period of time, or the number of transactions per day or other period of time. We will not be liable to you: (i) if we do not proceed with a transaction or disbursement that would exceed any limit established by us for a security reason, or (ii) if we permit a customer to withdraw from a transaction because a component of the Upper Platform or website is unavailable following the commencement of a transaction.

3. Term and Termination.

The term of this Agreement will start on the date of your completed registration for use of the Platform and continue until terminated by us or you as provided below. You may at any time terminate your account or this Agreement immediately on notice to us via email at tech@ontheupper.com. We may terminate your account or this Agreement for convenience with 30 days' advance notice. We may suspend or terminate your account or this Agreement immediately if we determine that (a) you have materially breached the Agreement and failed to cure such breach within seven (7) days of receiving a cure notice, unless your breach exposes us to liability toward a third party, in which case we are entitled to reduce, or waive, the aforementioned cure period at our reasonable discretion; (b) your account has been, or our controls identify that it may be used for, deceptive, fraudulent, or illegal activity; or (c) your use of the Platform has harmed, or our controls identify that it might harm, other providers, customers, or Upper's legitimate interests. We will promptly notify you of any such termination or suspension via email or similar means, indicating the reason and any options to appeal, except where we have reason to believe that providing this information will hinder the investigation or prevention of deceptive, fraudulent, or illegal activity, or will enable you to circumvent our safeguards. On termination of this Agreement, all related rights and obligations under this Agreement immediately terminate, except that (x) you will remain responsible for performing all of your obligations in connection with transactions entered into before termination and for any liabilities that accrued before or as a result of termination, and (y) Sections 2, 3, 4, 5, 6, 7, 8, 10, 13, 14, and 16 of this Agreement will survive.

4. License.

You grant us a royalty-free, non-exclusive, worldwide right and license for the duration of your original and derivative Intellectual Property Rights to use any and all of Your Materials for the Platform or other Upper product or service, and to sublicense the foregoing rights to our Affiliates and operators; provided, however, that we will comply with your removal requests as to specific uses of Your Materials (provided you are unable to do so using standard functionality made available to you via the applicable Platform process); provided further, however, that nothing in this Agreement will prevent or impair our right to use Your Materials without your consent to the extent that such use is allowable without a license from you or your Affiliates under applicable Law (e.g., fair use under United States copyright law, referential use under trademark law, or valid license from a third party).

Subject to and conditioned on your compliance with this Agreement, Upper hereby grants you a limited, non-exclusive, non-transferable, worldwide, royalty-free, revocable license during the term of this Agreement to access the Platform.

The content contained on the Platform, such as text, graphics, images, audio, video and other materials, including any Technology related thereto (collectively, the "**Platform Content**"), as well as the Upper Intellectual Property Rights, are protected by copyright, trademark and other such laws in the United States and foreign countries, and are owned or controlled by Upper or its affiliates or by third parties that have licensed their content to Upper. By using the Platform, you acknowledge that Upper owns all right, title and interest in the Upper Intellectual Property Rights and the Platform Content. You may not use or adapt any Upper Intellectual Property Rights or Platform Content without the prior written permission of Upper. There are no implied licenses granted under this Agreement unless expressly stated in this Agreement.

5. **Representations.**

Each party represents and warrants that: (a) if it is a business, it is duly organized, validly existing and in good standing under the Laws of the jurisdiction(s) in which the business is registered and that you are registering for the Platform within such jurisdiction; (b) it has all requisite right, power, and authority to enter into this Agreement, perform its obligations, and grant the rights, licenses, and authorizations in this Agreement; (c) any information provided or made available by one party to the other party or its Affiliates is at all times accurate and complete; and (d) it will comply with all applicable Laws in performance of its obligations and exercise of its rights under this Agreement.

In addition to the above, you further represent and warrant that: (a) you and/or the business you represent employs only individuals who are qualified, licensed and accredited to the maximum extent required by applicable Laws to provide your Services; and (b) that you or the business you represent has and will maintain throughout the term of this Agreement all appropriate types and levels of insurance required to cover any and all losses, damages or expenses arising out of claims relating to your provision of your Services, including but not limited to claims pertaining to quality of care, malpractice, bodily injury, and practicing without the requisite qualification and/or licensing.

6. **Indemnification.**

6.1. **Your indemnification obligations.** You will defend, indemnify, and hold harmless Upper, and our officers, directors, employees, and agents, against any third-party claim, loss, damage, settlement, cost, expense, or other liability (including, without limitation, attorneys' fees) (each, a "Claim") arising from or related to (a) your non-compliance with applicable Laws; (b) your Services, including the offer, sale, fulfillment, refund, cancellation, return, or adjustments thereof, Your Materials, any actual or alleged infringement of any Intellectual Property Rights by any of the foregoing, any personal injury, death, or property damage related thereto, and any malpractice claims or claims related to the quality of care provided by you; (c) Your Taxes and duties or the collection, payment, or failure to collect or pay Your Taxes or duties, or the failure to meet tax registration obligations or duties; or (d) actual or alleged breach of any representations you have made, including with respect to your qualification, licensure and accreditation to perform the Services, and your maintenance of all appropriate insurance.

6.2. **Upper's indemnification obligations.** Upper will defend, indemnify, and hold harmless you and your officers, directors, employees, and agents against any third-party Claim arising from or related to: (a) Upper's non-compliance with applicable Laws; or (b) allegations that the operation of the Platform infringes or misappropriates that third party's intellectual property rights.

6.3. **Process.** If any indemnified Claim might adversely affect us, we may, to the extent permitted by applicable Law, voluntarily intervene in the proceedings at our expense. No party may consent to the entry of any judgment or enter into any settlement of an indemnified Claim without the prior written consent of the other party, which may not be unreasonably withheld; except that a party may settle any claim that is exclusively directed at and exclusively affects that party.

7. **Disclaimer & General Release.**

7.1. THE UPPER PLATFORM AND SERVICES, INCLUDING ALL CONTENT, SOFTWARE, FUNCTIONS, MATERIALS, AND INFORMATION MADE AVAILABLE ON OR PROVIDED IN CONNECTION WITH THE PLATFORM, ARE PROVIDED "AS-IS." AS A USER OF THE PLATFORM, YOU USE THE PLATFORM AND OFFER YOUR SERVICES AT YOUR OWN RISK. EXCEPT THOSE SET FORTH IN SECTION 5 ABOVE, TO THE FULLEST EXTENT PERMISSIBLE BY LAW, WE AND OUR AFFILIATES DISCLAIM: (i) ANY REPRESENTATIONS OR WARRANTIES REGARDING THIS AGREEMENT, THE PLATFORM OR THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT; (ii) IMPLIED WARRANTIES ARISING OUT OF COURSE OF DEALING, COURSE OF PERFORMANCE, OR USAGE OF TRADE; AND (iii) ANY OBLIGATION, LIABILITY, RIGHT, CLAIM, OR REMEDY IN TORT, WHETHER OR NOT ARISING FROM OUR NEGLIGENCE. WE DO NOT WARRANT THAT THE FUNCTIONS CONTAINED IN THE PLATFORM WILL MEET YOUR REQUIREMENTS OR BE AVAILABLE, TIMELY, SECURE, UNINTERRUPTED, OR ERROR FREE, AND WE WILL NOT BE LIABLE FOR ANY SERVICE INTERRUPTIONS, INCLUDING BUT NOT LIMITED TO SYSTEM FAILURES OR OTHER INTERRUPTIONS THAT MAY AFFECT THE RECEIPT, PROCESSING, ACCEPTANCE, COMPLETION, OR SETTLEMENT OF ANY TRANSACTIONS.

7.2. BECAUSE UPPER IS NOT INVOLVED IN THE PROVISION OF SERVICES BETWEEN CUSTOMERS AND SERVICE PROVIDERS OR OTHER PARTICIPANT DEALINGS, IF A DISPUTE ARISES BETWEEN ONE OR MORE SUCH PARTICIPANTS, EACH PARTICIPANT RELEASES UPPER (AND ITS AGENTS AND EMPLOYEES) FROM CLAIMS, DEMANDS, AND DAMAGES (ACTUAL AND CONSEQUENTIAL) OF EVERY KIND AND NATURE, KNOWN AND UNKNOWN, SUSPECTED AND UNSUSPECTED, DISCLOSED AND UNDISCLOSED, ARISING OUT OF OR IN ANY WAY CONNECTED WITH SUCH DISPUTES.

8. **Limitation of Liability.**

WE WILL NOT BE LIABLE (WHETHER IN CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE, PRODUCT LIABILITY, OR OTHER THEORY), OR OTHERWISE) TO YOU OR ANY OTHER PERSON FOR COST OF COVER, RECOVERY, OR RECOUPMENT OF ANY INVESTMENT MADE BY YOU OR YOUR AFFILIATES IN CONNECTION WITH THIS AGREEMENT, OR FOR ANY LOSS OF PROFIT, REVENUE, BUSINESS, OR DATA OR PUNITIVE OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR RELATING TO THIS AGREEMENT, EVEN IF UPPER HAS BEEN ADVISED OF THE POSSIBILITY OF THOSE COSTS OR DAMAGES. FURTHER, OUR AGGREGATE LIABILITY ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED WILL NOT EXCEED AT ANY TIME THE TOTAL AMOUNTS DURING THE PRIOR TWO (2) MONTH PERIOD PAID BY YOU TO UPPER IN CONNECTION WITH THE PARTICULAR SERVICE GIVING RISE TO THE CLAIM.

9. Tax Matters.

As between the parties, you will be responsible for the collection, reporting, and payment of any and all of Your Taxes, except to the extent that (i) Upper automatically calculates, collects, or remits taxes on your behalf according to applicable law; or (ii) Upper expressly agrees to receive taxes or other transaction-based charges on your behalf in connection with tax calculation services made available by Upper and used by you. All fees and payments payable by you to Upper under this Agreement are exclusive of any applicable taxes, deductions or withholding, and you will be responsible for paying Upper any of Your Taxes imposed on such fees and any deduction or withholding required on any payment.

10. Confidentiality and Personal Data.

During the course of your use of the Platform, you may receive Confidential Information. You agree that for the term of the Agreement and five (5) years after termination: (a) all Confidential Information will remain Upper's exclusive property; (b) you will use Confidential Information only as is reasonably necessary for your participation on the Platform; (c) you will not otherwise disclose Confidential Information to any other Person except as required to comply with the Law; (d) you will take all reasonable measures to protect the Confidential Information against any use or disclosure that is not expressly permitted in this Agreement; and (e) you will retain Confidential Information only for so long as its use is necessary for participation on the Platform or to fulfill your statutory obligations (e.g. tax) and in all cases will delete such information upon termination or as soon as no longer required for the fulfillment of statutory obligations. The foregoing sentence does not restrict your right to share Confidential Information with a governmental entity that has jurisdiction over you, provided that you limit the disclosure to the minimum necessary and explicitly indicate the confidential nature of the shared information to the governmental entity. You may not issue any press release or make any public statement related to the Platform, or use our name, trademarks, or logo, in any way (including in promotional material) without our advance written permission, or misrepresent or embellish the relationship between us in any way.

Generally, you may not use customer personal data in any way inconsistent with applicable Law. You must keep customer personal data confidential at all times (the above 5 years' term limit does not apply to customer personal data).

11. Force Majeure.

We will not be liable for any delay or failure to perform any of our obligations under this Agreement by reasons, events or other matters beyond our reasonable control.

12. Relationship of Parties.

You and we are independent contractors, and nothing in this Agreement will create any partnership, joint venture, agency, franchise, sales representative, or employment relationship between us. You will have no authority to make or accept any offers or representations on our behalf. This Agreement will not create an exclusive relationship between you and us. Nothing expressed or mentioned in or implied from this Agreement is intended or will be construed to give to any person other than the parties to this Agreement any legal or equitable right, remedy, or claim under or in respect to this Agreement. This Agreement and all of the representations, warranties, covenants, conditions, and provisions in this Agreement are intended to be and are for the sole and exclusive benefit of Upper, you, and customers. As between you and us, you will be solely responsible for all obligations associated with the use of any third party service or feature that you permit us to use on your behalf, including compliance with any applicable terms of use. You will not make any statement, whether on your site or otherwise, that would contradict anything in this Section 12.

13. Suggestions and Other Information.

If you or any of your Affiliates elect to provide or make available suggestions, comments, ideas, improvements, or other feedback or materials to us in connection with or related to the Platform or any other Upper service or offering (including any related Technology), we will be free to use, disclose, reproduce, modify, license, transfer and otherwise distribute, and exploit any of the foregoing information or materials in any manner. In order to cooperate with governmental requests, to protect our systems and customers, or to ensure the integrity and operation of our business and systems, we may access and disclose any information we consider necessary or appropriate, including but not limited to user contact details, IP addresses and traffic information, usage history, and posted content. If we make suggestions on using the Platform, you are responsible for any actions you take based on our suggestions.

14. Modification.

14.1. We will provide at least fifteen (15) days' advance notice in accordance with Section 16 for changes to the Agreement.

14.2. However, we may change or modify the Agreement at any time with immediate effect (a) for legal, regulatory, fraud and abuse prevention, or security reasons; (b) to change existing features or add additional features to the Platform (where this does not materially adversely affect your use of the Platform); or (c) to restrict services or activities that we deem unsafe, inappropriate, or offensive. We will notify you about any change or modification in accordance with Section 16.

14.3. Your continued use of the Platform after the effective date of any change to this Agreement in accordance with this Section 14 will constitute your acceptance of that change. If any change is unacceptable to you, you agree not to use the Platform and to end the Agreement as described in Section 3.

15. Account and Password Security.

You are solely responsible for maintaining the security of your account and password. You may not disclose your password to any third party (other than third parties authorized by you to use your account in accordance with this Agreement) and are solely responsible for any use of or action taken under your account. If your password is compromised, you must immediately change your password.

16. Miscellaneous.

This Agreement will be governed by the laws of North Carolina, without reference to rules governing choice of laws.

Any unresolved dispute or controversy arising from or relating to this Agreement shall be finally resolved by binding arbitration through the platform provided by New Era ADR, Inc. (<https://neweraadr.com/>) (the “**New Era Platform**”) in accordance with its rules and procedures for “Virtual Standard Arbitrations” by a professional neutral(s) with substantial experience in resolving commercial disputes (the “**Neutral**”). The Neutral shall be chosen in accordance with the rules and procedures of the New Era Platform. The parties will bear costs as provided for under this Agreement or, if silent, in accordance with the rules and procedures of the New Era Platform. The prevailing party may be entitled to receive reimbursement of its reasonable expenses (including reasonable attorneys’ fees and all other expenses) incurred in connection therewith, at the Neutral’s discretion.

You may not assign this Agreement, by operation of law or otherwise, without our prior written consent. Any attempt to assign or otherwise transfer in violation of this section is void. You agree that we may assign or transfer our rights and obligations under this Agreement at any time with notice to you in advance of such assignment or transfer.

This Agreement will be binding on, inure to, and be enforceable against the parties and their respective successors and assigns. We may perform any of our obligations or exercise any of our rights under this Agreement through one or more of our Affiliates. Upper retains the right to immediately halt any of Your Transactions, prevent or restrict access to the Platform or take any other action to restrict access to or availability of any inaccurate listing, any inappropriately categorized services, any unlawful services, or any services otherwise prohibited by applicable Upper terms and policies. Because Upper is not your agent or the customer’s agent for any purpose, Upper will not act as either party’s agent in connection with resolving any disputes between participants related to or arising out of any transaction.

Upper will provide notice to you under this Agreement by sending you an email notification or by similar means. You must send all notices and other communications relating to Upper to our email at get@ontheupper.com. We may also communicate with you electronically and in other media, and you consent to such communications. You may change your e-mail addresses and certain other information via your account page on the Profile. You will ensure that all of your information is up to date and accurate at all times.

If any provision of this Agreement is deemed unlawful, void, or for any reason unenforceable, then that provision will be deemed severable from these terms and conditions and will not affect the validity and enforceability of any remaining provisions.

This Agreement represents the entire agreement between the parties with respect to the Platform and your marketing of your Services thereon and related subject matter, and supersedes any previous or contemporaneous oral or written agreements and understandings.

Definitions

As used in this Agreement, the following terms have the following meanings:

"Affiliate" means, with respect to any entity, any other entity that directly or indirectly controls, is controlled by, or is under common control with that entity.

"Confidential Information" means information relating to us, to the Platform, or Upper customers that is not known to the general public including, but not limited to, any information identifying or unique to specific customers; reports, insights, and other information about the Platform; data derived from the Platform except for data (other than customer personal data) arising from the sale of your Services comprising of services booked, prices, sales, and time of the transaction; and technical or operational specifications relating to the Platform. For the purposes of this Agreement, customer personal data constitutes Confidential Information at all times.

"Content" means copyrightable works under applicable Law and content protected by database rights under applicable Law.

"Intellectual Property Right" means any patent, copyright, Trademark, domain name, moral right, trade secret right, ownership rights in any Technology, or any other intellectual property right arising under any Laws and all ancillary and related rights, including all rights of registration and renewal and causes of action for violation, misappropriation or infringement of any of the foregoing.

"Law" means any law, ordinance, rule, regulation, order, license, permit, judgment, decision, or other requirement, now or in the future in effect, of any governmental authority (e.g., on a federal, state, or provincial level, as applicable) of competent jurisdiction.

"Order Information" means, with respect to any of your Services booked through the Platform, the order information that we provide or make available to you.

"Person" means any individual, corporation, partnership, limited liability company, governmental authority, association, joint venture, division, or other cognizable entity, whether or not having distinct legal existence.

"Platform" means the health and wellness marketplace developed and hosted by Upper at <https://www.upper.health>.

"Purchase Price" means the total amount payable or paid for your Services (including taxes).

"Remittance Calculation Date" is the date that is two (2) business days prior to the date of remittance.

"Required Service Information" means, with respect to each of your Services listed on the Platform, the following: (a) description, including as applicable, location-specific availability and options, scheduling guidelines and service cancellation policies; (b) Purchase Price; (c) any text, disclaimers, warnings, notices, or other content required by applicable Law to be displayed, or that are necessary for the safe participation in your Service, in connection with the offer, advertising, or sale of your Service; and (d) any other information reasonably requested by us.

"Sales Proceeds" means the gross proceeds from any of Your Transactions.

"Services" means all health and wellness services you market through the Platform.

"Technology" means any: (a) ideas, procedures, processes, systems, methods of operation, concepts, principles, and discoveries protected or protectable under the Laws of any jurisdiction; (b) interfaces, protocols, glossaries, libraries, structured XML formats, specifications, grammars, data formats, or other similar materials; and (c) software, hardware, code, technology, or other functional item.

"Trademark" means any trademark, service mark, trade dress (including any proprietary "look and feel"), trade name, other proprietary logo or insignia, or any other source or business identifier, protected or protectable under any Laws.

"Your Materials" means all of your Technology, your Content, information pertaining to your Services, data, materials, and other items or information provided or made available by you or your Affiliates to Upper or its Affiliates.

"Your Taxes" means any and all sales, goods and services, use, excise, premium, import, export, value added, consumption, and other taxes, regulatory fees, levies (specifically including environmental levies), or charges and duties assessed, incurred, or required to be collected or paid for any reason in connection with any advertisement, offer or sale of your Services.

"Your Transaction" means any sale of your Services through the Platform.