



GROUPQUOTE

## **Terms of Service License Agreement**

### **1. Title, Use and Scope of License:**

- 11 Luminatus Software, LLC dba R3Benefits Software (“Owner”) grants Client a personal, nontransferable, non-assignable and nonexclusive license to use the GroupQuote website during the “Term” of their Pricing Agreement for the use of identifying and providing group medical proposals for its clients. Client shall designate which individuals are authorized to have access to GroupQuote (the “Users”) and Client agrees to ensure that all Users act in compliance with the terms of this Agreement.
- 12 This Agreement grants Client only a license to access GroupQuote for use only with its employees and does not grant or assign to Client any legal or equitable title or other right to GroupQuote or any modification of GroupQuote. Client may not sell, assign, pledge, lease, transfer, license, sublicense or in any way encumber GroupQuote. Client shall not permit unauthorized use of or access to GroupQuote and shall notify Owner immediately of any unauthorized use or access.
- 13 Client acknowledges that GroupQuote (and the components thereof) contains unique, confidential and secret information and is the trade secret and confidential proprietary product of Owner. Client shall not disclose or otherwise make GroupQuote available to any person or entity other than employees or designated agents of Client required to have access to GroupQuote for normal use of the website.
- 14 Client has sole responsibility of Client’s use and operation of GroupQuote, including monitoring and verifying input and output data, back-up of input and output data, and for maintaining the required operating environment for GroupQuote. Client acknowledges that Client and/or the Users are solely responsible for the accuracy, quality and legality of all data entered into GroupQuote (“Client Data”) and that Owner has no responsibility for the Client Data.
- 15 All Client Data shall remain the sole property of Client or its User(s) and Owner does not acquire any rights to the Client Data. Upon termination of this Agreement, Owner has no obligation to maintain copies of the Client

Data or provide Client and/or User(s) with copies thereof, and unless legally prohibited, Owner may delete Client Data from GroupQuote.

## **2. Maintenance:**

- 2.1 Client and its Users are responsible for entering Client Data accurately into GroupQuote and auditing the output of GroupQuote. Client acknowledges that accuracy of any information entered into GroupQuote by Owner or other parties acting at their request remains the sole responsibility of the client. If Client and/or User(s) discover an Error in GroupQuote or its output, Client shall immediately advise Owner of such Error and submit all necessary documentation for Error determination by Owner. Owner is not liable for any damages experienced by the client due to Errors that may occur.
- 2.2 Client acknowledges that certain third party insurance carriers' ("Carriers") information will be provided on the GroupQuote website ("Carrier Information"). Accuracy of all such Carrier Information is the responsibility of the Client and Owner is not responsible for the accuracy or completeness of the Carrier Information.
- 2.3 Where applicable, Client is responsible to provide access to its account information for the insurance carriers that Owner provides ongoing servicing of the Client's employees. These requirements will be outlined on the Pricing Agreement.

## **3. License Charges:**

- 3.1 Unless explicitly waived by Owner or its designated delegates, Client agrees to pay Owner a license fee as outlined on the Pricing Agreement to have access under this Agreement. All license fees shall be due and payable on the first day of each calendar period specified by the Pricing Agreement during the Term of this Agreement.
- 3.2 All fees are stated and payable in United States dollars. Client shall pay a late charge on any amount, which remains unpaid thirty (30) days after its due date. The late charge shall be compounded and computed daily at the lesser of (i) 1.5% per month, or (ii) the highest rate permitted by law.
- 3.3 Client shall pay all tariffs and taxes assessed or levied by any governmental entity that are now or may become applicable to this Agreement or

measured by payments made under it or are required to be collected by Owner or paid by Owner to tax authorities.

**4. Warranties:**

GroupQuote is provided by Owner on an "AS IS" and "AS AVAILABLE" basis. Luminatus does not warrant that GroupQuote will meet Client's requirements, achieve any particular result, operate without interruption, is error free or an existing service will continue to function or be supported. Owner will perform any Services in a professional manner consistent with industry standard practices. Owner has no liability for breach of a warranty contained in this Section 4.1 but maintains the option to repair or replace GroupQuote at its own expense and, with respect to any of the Services, to re-perform the Services.

**5. DISCLAIMER OF OTHER WARRANTIES AND LIMITATION OF LIABILITY:**

**5.1 THE WARRANTIES SET FORTH IN 4 ARE IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS AND FITNESS FOR A PARTICULAR PURPOSE.**

**5.2 CLIENT'S REMEDIES AND OWNER' LIABILITY UNDER THIS AGREEMENT ARE LIMITED TO THE REMEDIES AND LIABILITIES SET FORTH IN SECTIONS 4 AND 6.3 OF THIS AGREEMENT. IF NOTWITHSTANDING THE ABOVE CLIENT IS ENTITLED TO RECOVER DAMAGES FOR ANY REASON, THEN IN THE AGGREGATE OWNER SHALL ONLY BE LIABLE FOR THE AMOUNT OF ANY ACTUAL LOSS OR DAMAGE WHICH IS NOT IN EXCESS OF THE AMOUNTS ACTUALLY PAID BY CLIENT TO OWNER UNDER THIS AGREEMENT DURING THE THREE MONTH PERIOD PRIOR TO CLIENT'S WRITTEN NOTICE TO OWNER OF ITS CLAIM.**

**5.3 EVEN IF CLIENT'S EXCLUSIVE REMEDIES FAIL OF THEIR ESSENTIAL PURPOSES, OWNER SHALL NEVER BE LIABLE UNDER THIS AGREEMENT TO CLIENT OR OTHERS FOR ANY ECONOMIC LOSS OR CONSEQUENTIAL DAMAGES (INCLUDING LOSS PROFITS OR SAVINGS) OR INCIDENTAL OR SPECIAL DAMAGES ARISING OUT OF THIS AGREEMENT REGARDLESS OF THE FORM OF THE ACTION, WHETHER**

**IN CONTRACT OR TORT (INCLUDING OWNER' OWN NEGLIGENCE),  
LAW OR EQUITY AND REGARDLESS WHETHER OWNER IS INFORMED  
OF THEIR POSSIBILITY.**

**6. TERM AND TERMINATION:**

- 6.1 The term of this Agreement commences on its effective date of the purchase order and will remain in effect for a period of one year, and will automatically renew for successive periods of one year unless terminated pursuant to Section 6.2 or Section 6.3, or until the terms listed on the purchase order are modified beyond compliance of the agreed-upon terms.
- 6.2 Either party may terminate this Agreement upon thirty (30) days prior written notice to the other party.
- 6.3 Either party may terminate this Agreement upon material breach by the other party of the terms and conditions of this Agreement, provided the party in breach is notified in writing by the other party of the material breach and such breach is not cured or a satisfactory resolution agreed upon in writing within thirty (30) days of such notice.
- 6.4 Client agrees that upon termination of this Agreement, Client and its Users shall not use GroupQuote and shall immediately return to Owner any Confidential Information or copies thereof retained by Client from GroupQuote.

**7. GENERAL:**

- 7.1 All notices required to be given by this Agreement shall be in writing. Notice will be deemed given when personally delivered to the party's authorized representative, or sent by reputable overnight courier or by certified mail, postage prepaid, return receipt requested to the address for each party set forth above. A notice sent by overnight courier or by certified mail will be deemed given on the date of receipt or refusal of receipt.
- 7.2 This Agreement and any attachments or amendments hereto: (i) constitute a fully integrated contract and state the entire agreement between the parties and supersede and merge any and all prior discussions, representations, demonstrations, negotiations, correspondence, writings and other agreements and together state the entire understanding and agreement upon which Owner and Client rely respecting the subject matter of this Agreement; (ii) may be amended or modified only in a writing agreed to and signed by the authorized representatives of the parties; (iii) shall be deemed to have been entered into and executed in the State of South Carolina and shall be construed,

performed and enforced in all respects in accordance with the laws of that State; and (iv) any action or proceeding arising out of or related to this Agreement shall be instituted only in the courts of Richland County, South Carolina.

- 73 Failure or delay on the part of either party to exercise any right, power, privilege or remedy in this Agreement will not constitute a waiver.
- 74 Nothing in this Agreement will place Owner and Client in a relationship whereby either (i) is the principal or agent of the other for any purpose or (ii) has the authority to bind the other in any way.
- 75 If any provision of this Agreement is held or declared to be illegal, invalid or unenforceable, the remainder of the Agreement will continue in full force and effect as though the illegal, invalid or unenforceable provision had not been contained in the Agreement.
- 76 The provisions of Sections 1.2, 1.3, and 1.5; Article 5, and Section 6.4 will survive termination of this Agreement.

Client certifies that they have read this Agreement and agree to be bound by its terms and conditions.

*Updated 1-23-2019*