YourEkko User Terms and Conditions

1. **The Parties**. These Terms and Conditions are part of the contract between **YourEkko, LLC** ("Company"), and the person accepting these terms and conditions ("User"). User and Company may also hereinafter be referred to as "Party" or the "Parties."

   WHEREAS the User intends to pay the Company for services provided under the following terms and conditions:

2. **Term**. The term of any Agreement between the Parties shall commence on the date of signing up, until either the services are completed or one or both Parties terminate this Agreement pursuant to the Termination clause herein.
   a. **Continuation and Discontinuation of Services**. In the event that services are discontinued for any reason other than the death of the User, Company shall have no further obligation to User. Any monetary gift retained by the Company for the User, shall be returned to the User via check upon request in the User portal or written request and authentication.

3. **Scope of Services**. The Scope of Services shall be those services that are specifically selected by User in its account and paid for. Only those services paid for are within the Scope of Services.
   a. **Ekkos**: As stated on the description of services you selected, Recurring "Legacy" Ekkos cease after the 1095th day from the date delivery began.
   b. Unless Recipient expressly opts out of receiving Messages or Monetary Gifts they will continue to be transmitted. Recipients have the option to opt-out via SMS reply "STOP" which will cease all communication from 844-996-4241 and/or per Ekko message on the Ekko message landing page there is an option to cease messages from that specific User. If either opt-out does not work, the Recipient must email a request to cease all specified messages and monetary gifts to support@yourekko.com and allow for a reasonable amount of time before such monetary gifts or messages cease.
   c. Support Ekkos send as scheduled unless the Recipient replies STOP via text which opts out of all YourEkko communication from all Users and/or if the opt-out option is selected per Support Ekko landing page.
4. **Recipient and Trusted Contact Terms and Conditions**. User expressly agrees that no messages or monetary gifts shall be transmitted to Recipient pursuant to Company's Services unless Recipient accepts Company's Terms and Conditions.
   a. User agrees that Trusted Contact(s) or Recipient(s) can request to obtain and/or prevent dissemination of messages if User death is proven to be suicide with legal documentation.

5. **Services Fees.** User shall pay Company a subscription fee plus any future fees for products or services requested.
   a. **Timing for Payment of Fees**. All fees shall be paid no later than the due date to avoid incurring a late fee or triggering a Contingency, as outlined herein this

Agreement. The "Subscription Period" shall be a yearly period between initial payment of services for one calendar year.

i. **Yearly Fee Payment Timing**. All yearly subscriptions shall be paid on the calendar day marking one calendar year from the initial purchase or other renewal.

b. **Fee Amount.** All yearly fees are subject to change and User shall receive notice prior to the change with the ability to cancel its account or continue with the updated fee.

c. Method of Payment. User may pay Company by credit card, which will also require that User link its credit card to its account for automatic drafting on yearly payments. There is a 3% convenience fee that some credit card providers require, which shall be paid by User.

d. Expenses. Any expenses incurred by Company in providing the Services shall be billed to the User. Specifically, Company shall take reasonable steps to inform User of any potential expense before it is incurred, unless such notification is not practical under the circumstances. In the event that any such expense is incurred, Company shall provide User with an explanation of the expense and an itemized receipt showing the amounts expended.

e. Receipts. Company shall provide User with an electronic receipt of any payments made to Company.

f. Failure to Pay timely. In the event that User fails to pay Company by the due date, as identified above, User shall have a Grace Period, and if payment is not received within such Grace Period, Company shall charge a Late Fee. If the Late Fee is not paid within the Late Fee Period, the User's Services shall be terminated pursuant to the Contingencies provisions of this Agreement.

i. Grace period. In the event that User does not pay by the due date, as indicated above, User shall have a one-time Grace Period of 15 (fifteen) calendar days to complete such payment. This Grace Period is specifically to account for payment malfunctions due to insufficient funds, change in card/account numbers, or other similar issues.

1. **During the Grace Period, Company shall reach out to User to confirm that payment has not been made and to confirm status.**
2. **If User does not respond for entire Grace Period, Company shall initiate the provisions of "No Contact by User" in the Contingency Section of this Agreement. This shall not stop Late Fees from being incurred, but such Late Fees shall be waived if User is at rest or no longer with us.**

ii. Late Fees. The Late Fee is equal to $10.00 (ten dollars), which shall incur on every missed payment. The purpose of the Late Fee is to cover the contingency process of reaching out to Trusted Contact(s) or Recipient(s) and shall only be incurred if User is alive.

iii. No Contact Months. If, during any subscription interval, the User, Trusted Contact(s) or Recipient(s) do not respond to any attempts to communicate from Company, User is still responsible for payment of intervals for the non-communication period; unless User is no longer with us.

iv. **Late Fee Period.** The Late Fee Period shall be from the 16th (sixteenth) day of the month after yearly subscription renewal date. The Late Fee Period shall continue from the 16th day, as indicated above, until the last day of that calendar month in which the payment is due; unless the User is no longer with us.

v. **Declined Payments.** In the event that User's payments are returned as a non-payment, User is responsible for any expenses incurred by Company due to such return of payment.

g. **Return of Fees.** All Fees paid to Company for any subscription are considered earned upon receipt and are NON-REFUNDABLE, whether User terminates the Agreement on the 2nd or last day of any Subscription Period.

6. **Timing of Services to be Provided for Ekkos.** Company shall provide Services to User in the format and timing as selected by User. If the scheduled delivery date has passed before the Recipient accepts their Terms and Conditions, the User is not entitled to a refund. The User may, however, request a replacement message to create at no additional charge.
7. **User responsibility.** User's responsibilities include the following:
    a. Follow all terms of this Agreement and fulfill all User obligations herein;
    b. Paying costs and fees specified and allowed under this Agreement;
    c. Providing accurate information to Company regarding contact information for all Trusted Contact(s), Recipient(s), and the User themselves;
    d. Providing accurate information as to the monetary gifts or messages it plans to send with Company's services;
    e. Respond to any communications from Company in a timely manner;
    f. Keep all information up to date on a continuous basis;
    g. Agrees not to use Company's services for any criminal purposes or other purposes that could cause Company to be liable for damages under the laws of any jurisdiction;
    h. Does not use Company's services to assist or otherwise be in conjunction with attempts to commit suicide or suicide itself;
    i. Agrees to call the suicide help line 988 if struggling with thoughts of or plans for suicidal ideation;
    j. Agrees to read all additional or changed Terms and Conditions as provided by Company in a timely fashion, accepting the additional or changed Terms and Conditions or otherwise notifying Company that it no longer wishes to continue with services.
    k. To sign or provide any additional documents that may be necessary to facilitate Company in providing the Services to User.
    l. Warrants that it owns all money that it deposits with Company.
    m. Duty to ensure that Company emails and text messages are received and ensure that no spam or junk blockers shall prevent such transmission.

8. **Contingencies**:
    a. **Failure to Pay**. In the event that User fails to pay within the Grace Period or Late Period, as identified above, all Services provided by Company shall be *suspended* until such time as Company does any of the following:
        i. Confirm that User no longer wishes to continue services with Company;

ii. Follows every contingency to confirm or communicate with User, all Trusted Contacts, and Recipient, as outlined below, and is unsuccessful in reaching any of the forgoing;
iii. Confirm that User is no longer with us and the Legacy services can begin; or
iv. Confirm User's new payment information to continue subscription billing.

After any of these contingencies can be confirmed, Company may take appropriate actions as otherwise outlined throughout this Agreement.

b. If User is "Unreachable" with Legacy Ekkos. The following shall apply in the event that User is unreachable:

i. **No User Contact. In User account, User selected that Company should contact User at a specific interval. If Company is unable to reach User via text message or email at the Outreach interval, Company shall reach out every day for** a period of 14 (fourteen) days. If User is still unreachable, User **expressly authorizes Company to contact the Trusted Contact(s) or Recipient(s) as outlined herein this Agreement.**

ii. **After NO User Contact.** The Trusted Contact(s) or Recipient(s) shall be contacted via the contact information provided by User on their Account. Note that technical difficulties or other interference outside of Company's control shall not result in damages to User, Trusted Contact(s) or Recipient(s) for failure to comply with the following timetables. User further agrees that it shall not hold Company liable for breach or any other claim based on Company's failure to contact the User, Trusted Contact(s), or Recipient(s) in accordance with the exact parameters set forth within this Section 7.

1. **Trusted Contacts.** Company shall send text messages and emails to the **Trusted Contacts in an attempt to verify User's status.**
2. **No Communication with User, any Trusted Contact or Recipient.** In the event that Company is unable to reach or communicate with any Trusted Contact(s) or the User, User expressly authorizes Company to reach out **directly to the Recipient** to confirm User's status. User authorizes and acknowledges that it is User's desire that Company shall reach out directly to Recipient if Trusted Contact(s) and/or User are not reachable.

c. **If Trusted Contact(s) is unable or unwilling to act as Trusted Contact**. In the event that any Trusted Contact(s) is unable or unwilling to act as a Trusted Contact, that person shall be treated as though it was never listed as a Trusted Contact by User. The next Trusted Contact shall take its position in priority and the unable or unwilling Trusted Contact shall be removed from having access to the User's account with Company.

i. Unwilling or unable means that the Trusted Contact is either of the following:
1. Deceased;
2. Incapacitated;

3. Unreachable, pursuant to the terms of this Agreement;
4. Communicates a desire to cease acting as a Trusted Contact; or
5. Otherwise is reasonably considered to be unable or unwilling to serve as a Trusted Contact.

d. **Recipient's Requirements to Decline Messages or Monetary Gifts from Company or the User.** In the Event that the Recipient does not wish to receive any communications from Company, the following shall apply:
   i. **Recipient Does Not Want Communications or Monetary Gifts From Company.** In the event that Recipient does not agree to the terms and conditions precedent to Company's provision of communications from User or monetary gifts from User scheduled to be provided**, the following shall occur:**
      1. **Messages.** The messages shall be kept for an additional 365 days from the initial outreach and may be accessed by the Recipient. In the event that Recipient wishes to retrieve messages kept, it must declare its intent to receive communications from Company.
      2. **Monetary Gifts.** Remaining monetary gifts shall be transmitted to the Company's fundraising partner of choice upon Recipient's opting out of or not claiming such monetary gifts.
         a. User expressly and specifically authorizes Company to transfer such remaining monetary gifts to the Company fundraising partner of choice should the Recipient opt out of receiving such monetary gift or Recipient be unreachable for a period of 365 days from the date Company first attempts to contact Recipient following confirmation that the User is no longer with us.
         b. User expressly authorizes Company to transfer such remaining monetary gifts to the fundraising partner of Company choice.

e. **If Recipient Wants All Monetary Gifts or Messages Immediately**. If User designated for monetary gifts to be paid over a period of time, whether on intervals or all at a later date, and Recipient demands immediate payment, User agrees that Recipient's demand shall be subject to a "cool off" period of 180 days. After such time period, all monetary gifts and messages will be transmitted to Recipient.

f. **Payment to Recipient.** Any payments from Company shall be made via check in the mail and/or gift card(s). Recipient shall not be required to confirm identity via uploading proofs of identification sufficient for Company to confirm identity, unless Company chooses to in its sole discretion.
   i. **IMPORTANT AGE NOTICE.** No recipient may be below the age of 18 at the time it is to receive messages or property.
   ii. **Maximum Monetary Gift Transfer Amount.** The maximum property transfer amount is $15,000.00 per User account in 1 calendar year.

9. **Not Responsible for Recipient or Trusted Contact Truthfulness**. In the event that User is unreachable, as outlined above, and Company provides the messages or property to Recipient, either because Recipient or Trusted Contact informed Company that the User is no longer with us, it is not Company's responsibility to confirm User is no longer with us.

a. **Confirmation Cases.** User understands and agrees that Company shall not be liable for relying upon the statements of Recipient(s) and/or Trusted Contact(s).
b. Company shall not be responsible for unauthorized uses of Recipient's email or SMS systems regarding monetary gifts, including but not limited to third parties accessing and using Recipient's devices, access to Recipient's SMS or email systems, or any form of hacking by which third parties gain access to or may obtain monetary gifts by use of such email or SMS.

10. **Not Responsible for Fraud or Misrepresentation Resulting from Incorrect Contact information**. In the event that messages or monetary gifts are set to be transmitted to the Recipient, User specifically agrees that Company shall not be liable for any changes in contact information or multiple person access to contact methods of Recipient such that someone other than Recipient has access to the contact method designated for Recipient by User or Recipient. It is User's ultimate responsibility to ensure that Company has the most up-to-date contact information for Recipient.

11. **Marital or Joint Property**. User agrees and understands that if User transfers Money designated as a monetary gift to Company, and such money originates from User's jointly owned property, whether through marriage or otherwise, that Company shall be required to cooperate with any court order to turn such money over to the court or other designated location. Moreover, User understands that money paid from a married person may be considered marital property for legal purposes and as such, may be subject to legal proceedings for recovery. Company's process does not constitute an avenue to prevent any determination by a court of competent jurisdiction that such funds are subject to equitable distribution.

12. **Confidentiality**. User and Company agree that any information provided to Company shall not be considered confidential, unless otherwise required by law or a court of competent jurisdiction.
    a. **Data Breach**. Company takes reasonable steps to ensure the security of User's provided information and messages. In the event that a data breach occurs that is outside the scope of the reasonable efforts taken by Company or otherwise outside of Company's control, Company shall not be responsible for the dissemination of such information or messages.
    b. **Company Not Insurer of Information or Messages**. Company expressly disclaims any responsibility to prevent all dissemination of User's information or messages and User agrees and understands that Company shall not be liable for any such dissemination.
    c. **Threatening, Violent, or Criminal Communications**. User understands that Company has no responsibility to prevent threatening, violent, or criminal communications from being transmitted and if Company determines that such messages are threatening, violent, or criminal, it may withhold such communications and even contact the appropriate authorities. User also understands that Company may withhold any messages or communications from User that, in Company's sole discretion, could be considered language reasonably intended to abuse or otherwise emotionally attack the recipient of such message.

d. **Sale or Sharing of Confidential Information**. Company shall not sell or otherwise share personal information related to User, trusted contact, or recipient that is considered confidential.

13. **Indemnification.** The User, including User, User's agents, chosen representatives, assigns, any third-parties acting on behalf of User, and User's Estate extending beyond User's death, shall indemnify and hold the Company harmless from any loss or liability from performing the Services under this Agreement. Specifically, User shall indemnify, defend, and hold the Indemnified Parties (as hereafter defined) harmless against any Indemnified Claim (as hereafter defined), provided Company gives User prompt notice of such Indemnified Claim. User's obligations set forth in the preceding sentence include, without limitation, retention and payment of attorneys and payment of court costs, as well as settlement at User's expense, payment of judgments, or both. The "Indemnified Parties" are Company and its officers, directors, shareholders, parents, subsidiaries, agents, insurers, successors, and assigns. An "Indemnified Claim" is any claim, suit, or proceeding against the Indemnified Parties arising out of, related to, or alleging: (i) any aspect of the performance of the Services; or (ii) any loss of, or damage to, property or reputation, caused by Company's actions in providing Services, except for intentional tortious conduct. User will control the defense of any Indemnified Claim, including appeals, negotiations, and any settlement or compromise thereof; provided Company shall have the right to approve the terms of any settlement or compromise that restricts its rights granted under this Agreement or subjects it to any ongoing obligations. User's obligations set forth in this Section do not apply to the extent that an Indemnified Claim arises out of Company's bad faith violation of this Agreement.
    a. **This also applies to any claims for harassment, negligent or intentional infliction of emotional distress, defamation, or other claims, including those types listed in this Agreement.**
    b. **User understands that it is possible that Recipient or a Trusted Contact may receive questions regarding your status and, if Company is unable to reach you, that could cause emotional distress at the contemplation that you have passed away (i.e. at rest or no longer with us), even if you haven't. User expressly agrees to indemnify and hold harmless Company, as stated in this Agreement otherwise, for any such claims as well.**

14. **Force Majeure**. The delivery of the Services by Company is dependent upon access by Company and User to electrical power and certain means of electronic communications, as well as various other factors that are beyond the control of Company or User to maintain. To the extent caused by Force Majeure, any failure of Company to deliver the Services according to the terms of this Agreement shall not constitute a default of this Agreement. For the purposes of this Agreement, a "Force Majeure" event shall include, but is not limited to, riots, insurrections, extreme weather, the interruption of electrical power, digital deletion of messages through no fault of Company, other factors preventing Company from providing services to User, earthquakes, fire, floods, volcanic eruption, acts of war, acts of terror, strikes, labor unrests, civil authority, civil unrest, acts of God, disruption of internet services, third party actions that interfere, etc., and the interruption of voice or data communications services.

15. **No Fiduciary Relationship.** User expressly agrees and acknowledges that no fiduciary relationship is created by this Agreement or any of the services provided by Company. Company expressly disclaims any fiduciary duties to User, Recipient, or any Trusted Contact. User agrees that Company does not owe any fiduciary duties to User, Recipient, or Trusted Contact.

16. **No Duty to Invest.** All monetary gifts shall be held in a non-interest yielding account. User shall not be entitled to interest on such amounts held for Recipient and Company has no duty to invest or otherwise do anything but hold such money for Recipient or return to User. User agrees that Company is under no obligation is invest or otherwise manage such funds in any way.

17. **Termination**. This Agreement shall terminate upon any of the following conditions: (i) User ceases payments to Company or User is no longer with us for a period of thirty-two days; (ii) upon written notice by either Party of a desire to terminate; (iii) upon the natural completion of the Services and Final payment of the Payment Balance; (vi) by Company upon learning of a breach of these Terms and Conditions by User; or (v) by rejecting any modifications to the Terms and Conditions will result in termination of Company's services.

    a. **Termination and Flat Fees**. Upon termination of this Agreement for any reason, except for material breach by Company, any flat fees paid to Company for the Services shall be considered earned by Company and are non-refundable.
    b. **Outstanding Performance.** Any outstanding performance owed by Company shall immediately cease upon notice of termination by User or cessation of payment by User, unless User is no longer with us.
        i. **Company's Early Termination.** In the event that Company notifies User that Services are terminated, Company will provide all monetary gifts back to User in a reasonable amount of time.
    c. **Outstanding Fees and User Information Upon Termination**. Upon termination of this Agreement, User shall, within thirty days of termination, pay in full any outstanding balance owed to Company. Company shall return any monetary gift to User.
    d. **Yearly Agreements**. If User contracted for yearly services on a subscription basis from Company, User SHALL give Company at least 24-hour notice before the next invoice due date on its yearly subscription prior to terminating the agreement. If User gives less than 24-hour notice prior to the next invoice due date, User shall be required to pay for the new year for the termination to apply. User understands that Company requires such notice to avoid damages and agrees to give such notice.

18. **Choice of Law and Forum Selection**. This Agreement shall be governed under the laws in the State of North Carolina without deference to North Carolina's principles of conflict of laws. Both User and Company consent to the exclusive jurisdiction and venue Mecklenburg County Court, located in Charlotte, North Carolina.

19. **Notice Addresses**. All notices required by this Agreement to be communicated by User and Company, shall be emailed to Company at the following email address: support@yourekko.com**.** User shall supply an email address and telephone number to Company and all notices required by this Agreement to be communicated by Company to User shall be emailed or texted to User at the information provided.

20. **Non-Exclusive Agreement**. User understands and agrees that Company may provide services, similar or identical to the Services, to other Users of Company and that this Agreement is not exclusive.

21. **Independent Contractor Status of Company**. User is an independent contractor, and nothing in this Agreement is intended, and nothing shall be construed, to create an employer-employee, partnership, joint venture, or other type of relationship, or to allow either party to exercise control or direction over the manner or method by which the other performs the Services. Each party understands and agrees that (i) the other will not be treated as an employee for federal income tax purposes, (ii) neither will withhold on behalf of the other any sums for income tax, unemployment insurance, social security, or any other withholding pursuant to any law or requirement of any governmental body or make available any of the benefits afforded to its employees, (iii) all of such payments, withholdings, and benefits, if any, are the sole responsibility of the party incurring the liability, and (iv) each will indemnify and hold the other harmless from any and all loss or liability arising with respect to such payments, withholdings, and benefits, if any.

22. **Amendment**. These Terms and Conditions may be modified by Company at any time, notice of which shall be provided to User before such modification takes effect. User expressly agrees to any changes in the Terms and Conditions unless expressly rejecting those changes to Company via the email address or telephone number listed herein.

23. **Class Action Waiver**. **ARBITRATION AND LITIGATION MUST BE ON AN INDIVIDUAL BASIS. NEITHER PARTY MAY JOIN OR CONSOLIDATE CLAIMS IN ARBITRATION OR LITIGATION BY OR AGAINST OTHER USERS OF THE SERVICES AS A REPRESENTATIVE OR MEMBER OF A CLASS OR IN A PRIVATE ATTORNEY GENERAL CAPACITY**. Only a court, and not an arbitrator, shall determine the validity and effect of the Class Action Waiver. Even if all parties have opted to litigate a claim in court, either party may elect arbitration with respect to any claim made by a new party or any new claims later asserted in that lawsuit.

24. **Severability.** This Agreement shall remain in effect in the event a section or provision is unenforceable or invalid. All remaining sections and provisions shall be deemed legally binding unless a court rules that any such provision or section is invalid or unenforceable, thus, limiting the effect of another provision or section. In such case, the affected provision or section shall be enforced as so limited.

25. **Execution in Counterparts and Form of Signatures**. This Agreement may be executed in one or more counterparts. Each counterpart will be an original, but all such counterparts

will constitute a single instrument. Such signatures may also be completed electronically, giving such electronic signature the full force of law and effect as a "wet-ink-signature."

26. **Breach Waiver.** Any waiver by the Company of a breach of any section of this Agreement by the User shall not operate or be construed as a waiver of any subsequent breach by the Contractor.

27. **Attorney's Fees.** In the event that either party must enforce this Agreement, the prevailing party shall have its reasonable attorney's fees and costs paid for by the non-prevailing party. Any settlement that arises from a dispute to enforce this Agreement also entitles the non-breaching party to its reasonable attorney's fees.

28. **Entire Agreement**. This Agreement, along with any attachments or addendums, represents the entire agreement between the parties. Therefore, this Agreement supersedes any prior agreements, promises, conditions, or understandings between the User and Company. If there should arise any ambiguity or conflict between this Agreement and any attachment or exhibit to this Agreement, the terms of the body of this Agreement shall supersede the terms of any attachment or exhibit hereto.