

**SAFE CARE AT HOME, LLC  
END USER LICENSE AGREEMENT**

**If you think you may have a medical emergency, call your doctor or 911 immediately.**

**ALWAYS** speak with your doctor or qualified healthcare provider before you start, stop, or change any prescribed part of your care plan or treatment. You should always seek the advice of your physician or qualified health provider with any questions you may have regarding a medical condition.

**NEVER** disregard professional medical advice from your doctor or qualified healthcare provider or delay seeking such advice because of something you have seen, heard, or read on [SAFECAREatHome.com](http://SAFECAREatHome.com).

**IMPORTANT: READ CAREFULLY:**

This Safe Care at Home, LLC ("SAFECAREatHome" or "Licensor") End User License Agreement ("EULA") is a legal agreement between you (either an individual or a entity) ("You" or "Licensee") and SAFECAREatHome covering Licensee's access and use of content and materials from the SAFECAREatHome website and/or Mobile APP, which may include computer software, websites, and/or applications for mobile platforms, such as smartphones and tablet computers (collectively the "Software") together with associated print, audio and visual content, printable materials, and electronic documentation (collectively the "Content" and the content together with the Software collectively the "Licensed Product").

THE CONTENTS OF THE SAFECAREATHOME WEBSITE - WWW.SAFECAREATHOME.COM (THE "SITE") AND DOWNLOADABLE CONTENT, SUCH AS TEXT, GRAPHICS, IMAGES, VIDEOS, CHECKLISTS, CARE LESSONS, AND OTHER MATERIAL CONTAINED ON OR AVAILABLE FROM THE SITE (THE "CONTENT") ARE FOR INFORMATIONAL PURPOSES ONLY. THE CONTENT IS NOT INTENDED TO BE A SUBSTITUTE FOR PROFESSIONAL MEDICAL ADVICE, DIAGNOSIS, OR TREATMENT. RELIANCE ON AND USE OF ANY INFORMATION PROVIDED BY SAFECAREATHOME, ITS EMPLOYEES, VENDORS, AGENTS, AND PARTNERS IS SOLELY AT YOUR OWN RISK.

THE SITE AND THE CONTENT ARE PROVIDED ON AN "AS IS" BASIS. SAFECAREATHOME WILL NOT BE LIABLE FOR ANY DAMAGES OF ANY KIND ARISING FROM THE USE OF THIS SITE, INCLUDING BUT NOT LIMITED TO DIRECT, INDIRECT, INCIDENT, PUNITIVE AND CONSEQUENTIAL DAMAGES.

YOU AGREE THROUGH YOUR ACCEPTANCE OF THE EULA AND YOUR USE OF THE SITE THAT YOU WILL NOT ASSERT ANY CLAIM FOR PERSONAL INJURY, TORT, OR OTHER CLAIM OR LIABILITY THAT IS DIRECTLY OR INDIRECTLY RELATED TO YOU USE OF THE SITE OR THE CONTENT, INCLUDING, BUT NOT LIMITED TO, FOLLOWING ONE OR MORE INSTRUCTIONS, ADVICE, PROCESSES, OR PROCEDURES DESCRIBED IN THE VIDEOS, CARE LESSONS OR OTHER CONTENT, AND YOU HEREBY INDEMNIFY AND AGREE TO INDEMNIFY, DEFEND, AND HOLD SAFECAREATHOME HARMLESS AGAINST ANY AND ALL COSTS, EXPENSE, AND/OR DAMAGES, INCLUDING, BUT NOT LIMITED TO ATTORNEY'S FEES (INCLUDING THE FAIR MARKET VALUE OF IN-HOUSE COUNSEL TIME) AND COURT COSTS/FEES, RESULTING OR RELATED TO ANY THIRD PARTY CLAIM ASSERTING PERSONAL INJURY, TORT, OR OTHER CLAIM OR LIABILITY THAT IS DIRECTLY OR INDIRECTLY RELATED TO THEIR USE OF THE SITE USING YOUR LOG-IN CREDENTIALS, THEIR USE OF CONTENT DOWNLOADED BY YOU, OR

**YOUR USE OF THE CONTENT IN CONNECTION WITH THE PROVISION OF MEDICAL CARE TO ANY THIRD PARTY.**

**TABLE OF CONTENTS**

**I. TERMS OF LICENSE ..... 1**

1.01 GRANT OF LICENSE ..... 1

    (a) *Individual Subscriber*.....1

    (b) *Access Provided by Healthcare Provider*.....1

    (c) *Business Users*.....1

1.02 RESTRICTIONS..... 1

**II. REASONABLE USE ..... 2**

2.01 DOCUMENTATION. .... 2

2.02 DISASSEMBLY..... 2

2.03 RESERVATION OF RIGHTS..... 2

**III. DESCRIPTION OF OTHER RIGHTS AND LIMITATIONS ..... 2**

3.01 LIMITATION ON DERIVED WORKS AND REDISTRIBUTION ..... 2

3.02 RENTAL/SUBLICENSE PROHIBITED..... 3

3.03 TERMINATION..... 3

3.04 CONSIDERATION..... 3

3.05 TERM..... 3

3.06 CONSENT TO USE OF DATA..... 3

**IV. SOFTWARE MAINTENANCE, UPDATES AND DISCONTINUATION; HARDWARE..... 4**

4.01 SOFTWARE..... 4

4.02 LICENSEE OBLIGATION..... 4

4.03 SOFTWARE DELIVERY..... 4

4.04 UPGRADES..... 4

**V. DATA COLLECTION AND USE..... 5**

**VI. INTELLECTUAL PROPERTY RIGHTS..... 5**

6.01 TITLE..... 5

6.02 CONFIDENTIAL INFORMATION..... 6

6.03 SPECIFIC PERFORMANCE..... 6

**VII. LINKS TO THIRD PARTY SITES..... 7**

**VIII. LIMITED WARRANTY AND DISCLAIMER..... 7**

8.01 EXCLUSIVE REMEDY..... 8

**IX. INDEMNIFICATION..... 8**

9.01 LIMITATION ON LIABILITY..... 8

9.02 SECURITY DEVICES..... 9

9.03 GENERAL INDEMNIFICATION..... 9

9.04 INDEMNIFICATION PROCEDURE..... 9

9.05 ACKNOWLEDGEMENT..... 9

**X. GENERAL PROVISIONS..... 10**

**XI. DEFINITIONS..... 11**



**BY LOGGING INTO THE SITE AND USING THE LICENSED PRODUCT, YOU AGREE TO BE BOUND BY THE TERMS OF THIS EULA, INCLUDING THE INSTRUCTIONS, TERMS AND CONDITIONS BELOW AND THOSE LISTED ON PAGES (i) AND (ii) ABOVE.**

**I. TERMS OF LICENSE**

**1.01 GRANT OF LICENSE**

**(a) Individual Subscriber**

If you are an individual subscriber to the Site (an “Individual Subscriber”), a license for the access and use of for the Licensed Product(s) (the “License”) is granted to You by Licensor. Subject to the terms and conditions outlined in this EULA, the license granted to You as an Individual Subscriber is a limited, non-exclusive, non-transferable license to use the Licensed Product on any portable music player, smartphone, tablet computer, or computer that You own or control.

**(b) Access Provided by Healthcare Provider.**

If your healthcare provider or insurer has purchased the right for You to use the Licensed Product (a “Group Subscriber”), your use of the Licensed Product is subject to the terms and conditions of this Agreement, and the terms of any agreements that are passed through by virtue of our arrangement with the healthcare provider who purchase your right to access the Licensed Product. Subject to the terms and conditions outlined in this EULA, the license granted to You as a Group Subscriber is a limited, non-exclusive, non-transferable license to use the Licensed Product on any portable music player, smartphone, tablet computer, or computer that You own or control. Your right to access and use the Licensed Products is dependant on your ongoing relationship with the healthcare provider or insurer has purchased the right for you to use the Licensed Product.

**(c) Business Users**

If you have been provided with access to the Product as a SAFECAREatHome customer, vendor, trade partner, sales channel partner, subcontractor, or employee of any such organization (a “Business User”), your use of the Product is also subject to the terms and conditions of this EULA and the terms of any formal written agreements between You and/or your employer and Licensor. In the event of a conflict between this EULA and another formal written agreement with your employer relating to the access and use of the Licensed Products, the terms of the other formal written agreement shall have precedence. As a Business User, SAFECAREatHome hereby grants Licensee a limited, non-exclusive, non-transferable license to use the Licensed Product in a manner consistent with the purpose for which SAFECAREatHome has provided you with access to the Product(s).

**1.02 RESTRICTIONS**

Your license does not allow You to use the Licensed Product on any portable music player, smartphone, tablet computer, or computer that You do not own or

control, and You may not distribute or make the Licensed Product available over a network or connection where it could be accessed or used by multiple devices and/or multiple users at the same time. You may not copy (except as expressly permitted by this license and the Usage Rules), decompile, reverse engineer, disassemble, attempt to derive the source code of, modify, or create derivative works of the Licensed Products, any updates, or any part thereof (except as and only to the extent any foregoing restriction is prohibited by applicable law or to the extent as may be permitted by the licensing terms governing use of any open sourced components included with the Licensed Application). Any attempt to do so is a violation of the rights of the Licensor and its licensors. You may not rent, lease, lend, sell, redistribute or sublicense the Licensed Product. If You breach one or more of these restrictions, You may be subject to prosecution and damages. The terms of the license will govern any upgrades provided by SAFECAREatHome that replace and/or supplement the original Licensed Product, unless such upgrade is accompanied by a separate license in which case the terms of that license will govern.

## **II. REASONABLE USE**

### **2.01 DOCUMENTATION.**

With respect to electronic and other documentation, you may make a limited number of copies (either in hard copy or electronic form) as may be reasonably necessary for Licensee's use of the Product; provided that such copies shall be used only for internal and/or personal purposes and are not republished or distributed externally.

### **2.02 DISASSEMBLY.**

You may not reverse engineer, decompile, disassemble or in any other way try to gain access to information regarding the construction of the Software or the Product.

### **2.03 RESERVATION OF RIGHTS.**

SAFECAREatHome reserves all rights not expressly granted herein.

## **III. DESCRIPTION OF OTHER RIGHTS AND LIMITATIONS**

### **3.01 LIMITATION ON DERIVED WORKS AND REDISTRIBUTION**

Your use and access is subject to the following limitations:

- The Product may not be included as part of a SDK.
- The Product may not be used to develop derived works that offer similar functionality.
- The Product may not be exposed through an API for use by an unlicensed third party.
- The Product may not be used to develop derived works that offer similar functionality as the Product

- For a period of one (1) year (365 days) from the date you last use, test, demonstrate, or otherwise access the Product, you agree not to create software, independent of the Product, which might directly compete with SAFECAREatHome products.
- Distribution of the Source Code in any form, with or without modifications, is strictly prohibited and any attempt to gain access to the Source Code is strictly prohibited.

### **3.02 RENTAL/SUBLICENSE PROHIBITED.**

You may not rent, lease, lend, or sublicense the Product without express written permission from SAFECAREatHome, which consent may be conditioned, withheld or delayed in SAFECAREatHome's sole discretion.

### **3.03 TERMINATION.**

Without prejudice to any other rights, SAFECAREatHome may terminate this EULA if you fail to comply with the terms and conditions of this EULA. SAFECAREatHome may also terminate this EULA for Group Subscribers and Business Users in connection with the end of the agreement covering the use of the SAFECAREatHome.com site. All such terminations shall not impact the applicability of the EULA for activities that happened during the term.

### **3.04 CONSIDERATION.**

For the rights and license granted in this EULA, you (or your healthcare provider or insurer) will pay SAFECAREatHome the currently published price available at SAFECAREatHome.com or another mutually agreed upon amount to appear on a valid invoice or as outlined in a separate License Agreement. Failure to make timely payment shall be grounds for termination of this EULA.

### **3.05 TERM.**

The term of this EULA shall continue until terminated as provided for herein or upon the expiration or termination of a master license agreement for the Product between SAFECAREatHome and Licensee (or Licensee's healthcare provider or insurer).

### **3.06 CONSENT TO USE OF DATA.**

You agree that SAFECAREatHome and its affiliates may collect and use technical information, excluding any Confidential Information, gathered as part of your use of the Licensed Products. SAFECAREatHome may use this information to improve our products or to provide customized services or technologies to you. SAFECAREatHome may disclose this information, excluding any information explicitly declared as Confidential Information, to others but not in a form that personally identifies you. SAFECAREatHome does not anticipate storing and/or processing EPHI (Electronic Protected Health Information) or PHI (Protected Health Information) on their systems, as all health related information in our system is anticipated to be user-generated content and not information received from covered entity. SAFECAREatHome is fully aware of the requirements under the Health Insurance Portability and Accountability Act (45 CFR Parts 160, 162,

and 164) of February 2006 for privacy and security and has undertaken necessary steps to maintain compliance. Policies, procedures and controls are in place to ensure that SAFECAREatHome products and services are compliant in the role of a business associate in the event that it is subject to HIPAA.

**IV. SOFTWARE MAINTENANCE, UPDATES AND DISCONTINUATION; HARDWARE.**

**4.01 SOFTWARE**

- a. SAFECAREatHome may, in its sole discretion, provide technical support, updates and/or supplements of the Software and/or related information ("Updates") to you hereunder, in which case such Updates shall also be deemed to be included in The Product and therefore governed by this EULA, unless other terms of use are provided by SAFECAREatHome with such Updates.
- b. SAFECAREatHome reserves the right to discontinue The Product at any time, whether it is offered individually or as a part of a product suite.
- c. If for any reason SAFECAREatHome decides to discontinue The Product they will provide the following remedy to each license owner:
  - SAFECAREatHome will make a reasonable effort to notify you in writing at least fifteen (15) days prior to the discontinuation of The Product.
- d. If for any reason, including insolvency or dissolution, SAFECAREatHome is unable to remain in business they will provide the following remedy to each license owner:
  - SAFECAREatHome will make a reasonable effort to notify you at least thirty (30) days prior to close of business.

**4.02 LICENSEE OBLIGATION.**

Licensee shall supply adequate computers / smartphones / tablet computers for Licensee's needs. Licensee agrees to update its hardware and software used to access the Software and to keep them current with industry standards and the system requirements for the Software. Licensee shall be responsible for maintaining its own connectivity to access the internet. Licensee will not access the Licensed Products on any hardware that is not utilizing a vendor approved operating system or is otherwise "jailbroken".

**4.03 SOFTWARE DELIVERY.**

The Product and any associated materials are provided in electronic format only. You are responsible for accessing the Product from the SAFECAREatHome's websites, including, but not limited to : <http://www.SAFECAREatHome.com>.

**4.04 UPGRADES.**

If this copy of The Product is an upgrade from an earlier version of The Product, it is provided to you on a license exchange basis. You agree by your installation and use of such copy of The Product to voluntarily terminate your earlier EULA

and that you will not continue to use the earlier version of The Product or transfer it to another person or entity unless such transfer is otherwise valid according to the terms of this EULA.

#### **V. DATA COLLECTION AND USE.**

You agree that Licensor may collect and use user-data, technical data and related information, including but not limited to technical information about Your device, system and software, operating systems, location, internet address, peripherals, and other information that is gathered periodically to facilitate the provision of software updates, product support and other services to You (if any) related to the Licensed Product as well as any user-generated information that is entered into the Licensed Product. You agree that Licensor may use this information, as long as it is in a form that does not personally identify You, to improve its products or to provide services or technologies to You. More information on data collection and use may be found in our Privacy Policy, which is incorporated herein by reference.

#### **VI. INTELLECTUAL PROPERTY RIGHTS.**

##### **6.01 TITLE.**

All Licensed Products remain the sole and exclusive property of SAFECAREatHome and the source code of the Software (the Software in human readable form) remains the trade secret of SAFECAREatHome and its licensors (if any). Notwithstanding anything in this Agreement to the contrary, Licensee acknowledges and agrees that, except for such rights as are expressly granted to Licensee hereunder, SAFECAREatHome has and shall have all right, title, and interest, including all copyrights, property rights and moral rights, in and to the Licensed Products, and all improvements, enhancements, upgrades, updates, modifications, corrections, revisions or other changes thereto ("Improvements"), whether developed by or on behalf of SAFECAREatHome or Licensee, and all Intellectual Property Rights (as defined below) related thereto and all economic benefits resulting therefrom. Nothing in this Agreement, nor any other act or omission of SAFECAREatHome, shall be construed as a grant, transfer, conveyance, assignment or concession by SAFECAREatHome, or the consent by SAFECAREatHome to any such grant, transfer, conveyance, assignment or concession to Licensee of any copyright, property right, moral right, ownership or other proprietary right in the Licensed Products, any Improvements thereto developed by or on behalf of SAFECAREatHome or Licensee, the Intellectual Property Rights related thereto, or the economic benefits resulting therefrom. As used herein, "Intellectual Property Rights" means any and all statutory, common law, treaty, convention and other non-statutory rights that protect, or are available to protect, the Licensed Products and all intellectual property embodied therein against unauthorized use or copying in the United States or other countries, including all rights to recover for damages and profits for past, present and future infringements thereof, and all rights under licenses, sublicenses, assignments, agreements or similar arrangements to use any intellectual property of third parties. Licensee shall not create derivative works based on the Licensed

Products, nor shall Licensee reverse engineer, decompile or disassemble the Licensed Products. Licensee shall not develop, market, or sell any competitive type of software derived, or developed from, in whole or any part of the Licensed Products. Licensee covenants that it shall not at any time contest the validity, ownership or title of SAFECAREatHome to the Licensed Products. Any and all of SAFECAREatHome's goodwill arising from Licensee's use of the Licensed Products shall inure solely to the benefit of SAFECAREatHome, and neither during nor after the termination of this Agreement shall Licensee assert any claim to SAFECAREatHome's goodwill. Licensee agrees to use the Software only as provided in this Agreement and only during the Term. All rights not expressly granted are reserved to SAFECAREatHome.

#### **6.02 CONFIDENTIAL INFORMATION.**

The terms and conditions of this Agreement shall be deemed to be Confidential Information. Each Party further agrees not to provide or otherwise make available any written or electronic materials and documents of any type received from the other Party, including but not limited to, training and support materials, software documentation, in any form, to any person. Nothing in this Agreement will prohibit or limit either Party's use of information (i) previously known to it, (ii) independently developed by it, (iii) acquired by it from a third party which was not, to the receiving party's knowledge, under an obligation to the disclosing party not to disclose such information, or (iv) which is or becomes publicly available through no breach by the receiving party of this Agreement. In the event either party receives a subpoena or other validly issued administrative or judicial process requesting Confidential Information of the other party, it will provide prompt notice to the other party of such receipt, and may thereafter comply with such process. Each Party hereby acknowledges: (i) that the Confidential Information is commercially and competitively valuable to SAFECAREatHome and is vital to the success of SAFECAREatHome's business at all locations at which SAFECAREatHome does business; (ii) that the unauthorized use or disclosure of such Confidential Information would cause irreparable harm to SAFECAREatHome; (iii) that, by this Agreement, each Party is taking reasonable steps to protect the other Party's legitimate interest in its Confidential Information, and (iv) that the restrictions on Licensee set forth in this Agreement are reasonably necessary in order to protect SAFECAREatHome's legitimate interest in the Confidential Information.

#### **6.03 SPECIFIC PERFORMANCE.**

In addition to all of the remedies otherwise available to SAFECAREatHome, including, but not limited to, recovery of damages incurred in the enforcement of this Section, SAFECAREatHome shall have the right to injunctive relief to restrain and enjoin any actual or threatened breach of the provisions of this Section. All of Disclosing SAFECAREatHome's remedies for breach of this Section shall be cumulative and the pursuit of one remedy shall not be deemed to exclude any other remedies. Licensee acknowledges and agrees that SAFECAREatHome's rights under this Section are special and unique and that any violation of this Section would not be adequately compensated by money

damages alone. Upon termination or breach of this Agreement all copies of the Licensed Products and other Confidential Information shall be returned to SAFECAREatHome or destroyed according to industry standards and best practices within five (5) business days, and, in the case of destruction, a notarized affidavit shall be provided to SAFECAREatHome certifying same. Licensee agrees that this obligation to return all copies of the Software and the Documentation shall be enforceable by a mandatory injunction entered without any bond.

**VII. LINKS TO THIRD PARTY SITES.**

You may link to third party sites through the use of The Product. The third party sites are not under the control of SAFECAREatHome, and SAFECAREatHome is not responsible for the contents of any third party sites, any links contained in third party sites, or any changes or updates to third party sites. SAFECAREatHome is not responsible for webcasting or any other form of transmission received from any third party sites. SAFECAREatHome is providing these links to third party sites to you only as a convenience, and the inclusion of any link does not imply an endorsement by SAFECAREatHome of the third party site.

**VIII. LIMITED WARRANTY AND DISCLAIMER.**

SAFECAREatHome warrants that, for a period of thirty (30) days from the date of delivery (as evidenced by a your acceptance of this End User License Agreement): (i) when used with a recommended hardware configuration, The Product will perform in substantial conformance with all material portions of the documentation supplied with The Product.

SAFECAREATHOME PROVIDES NO REMEDIES OR WARRANTIES, WHETHER EXPRESS OR IMPLIED, FOR EVALUATION VERSIONS OF THE PRODUCT. THE PRODUCT IS PROVIDED "AS IS".

SAFECAREATHOME AND ITS SUPPLIERS DISCLAIM ALL OTHER WARRANTIES AND REPRESENTATIONS, WHETHER EXPRESS, IMPLIED, OR OTHERWISE, INCLUDING THE WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. SAFECAREATHOME DOES NOT WARRANT THAT THE PRODUCT IS ERROR-FREE OR WILL OPERATE WITHOUT INTERRUPTION. THE PRODUCT IS NOT DESIGNED, INTENDED OR LICENSED FOR USE IN HAZARDOUS ENVIRONMENTS REQUIRING FAIL-SAFE CONTROLS. SAFECAREATHOME DOES NOT PROVIDE PROFESSIONAL MEDICAL ADVICE. SAFECAREATHOME SPECIFICALLY DISCLAIMS ANY EXPRESS OR IMPLIED WARRANTY OF FITNESS FOR SUCH PURPOSES.

IF APPLICABLE LAW REQUIRES ANY WARRANTIES WITH RESPECT TO THE PRODUCT, ALL SUCH WARRANTIES ARE LIMITED IN DURATION TO NINETY (90) DAYS FROM THE DATE OF DELIVERY.

NO ORAL OR WRITTEN INFORMATION OR ADVICE GIVEN BY SAFECAREATHOME, ITS DEALERS, DISTRIBUTORS, AGENTS OR

EMPLOYEES SHALL CREATE A WARRANTY OR IN ANY WAY INCREASE THE SCOPE OF ANY WARRANTY PROVIDED HEREIN.

**8.01 EXCLUSIVE REMEDY.**

Your exclusive remedy under this Section is contact customer support via email at support@SAFECAREatHome.com with a detailed description of the problem, including the model name/number of the hardware device you are using the access the site, the web browser and version you are using, and the specific actions that you took to create the error or event that you feel may be covered by the warranties provided in this section. Provided that any non-compliance with the above warranty is reported in writing to SAFECAREatHome no more than thirty (30) days following your initial access to the site, SAFECAREatHome will use reasonable commercial efforts to supply you with access to a replacement version of The Product that substantially conforms to the documentation or refund to you one month of a single user subscription to the SAFECAREatHome.com website at our standard individual user rate, at its option. SAFECAREatHome shall have no responsibility if The Product has been altered in any way, or if the failure arises out of use of The Product with other than a recommended hardware configuration. Any such misuse, accident, abuse, modification or misapplication of The Product will void the warranty above. **THIS REMEDY IS THE SOLE AND EXCLUSIVE REMEDY AVAILABLE TO YOU FOR BREACH OF EXPRESS OR IMPLIED WARRANTIES WITH RESPECT TO THE PRODUCT.**

**IX. INDEMNIFICATION.**

**9.01 LIMITATION ON LIABILITY.**

EXCEPT AS EXPRESSLY PROVIDED FOR IN THIS SECTION, LICENSEE'S SOLE REMEDY WITH RESPECT TO CLAIMS ARISING UNDER THIS AGREEMENT IS TO REQUIRE SAFECAREATHOME TO TAKE SUCH REMEDIAL ACTIONS, OTHER THAN THE PAYMENT OF FUNDS, AS ARE COMMERCIALY REASONABLE TO REMEDY THE CLAIM. NOTWITHSTANDING ANYTHING HEREIN TO THE CONTRARY, THE LIMIT OF SAFECAREATHOME'S LIABILITY (WHETHER IN CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY, BY STATUTE OR OTHERWISE) TO LICENSEE OR TO ANY THIRD PARTY CONCERNING SAFECAREATHOME'S PERFORMANCE OR NON-PERFORMANCE, OR IN ANY MANNER RELATED TO THIS AGREEMENT, FOR ANY AND ALL CLAIMS WILL NOT IN THE AGGREGATE EXCEED THE LESSER OF THE FEES RECEIVED BY SAFECAREATHOME FROM LICENSEE, LESS ANY CREDITS/REFUNDS GIVEN TO LICENSEE, DURING THEN CURRENT TERM OF THIS EULA and \$100. IN NO EVENT WILL SAFECAREATHOME BE LIABLE FOR ANY SPECIAL, INCIDENTAL, PUNITIVE OR CONSEQUENTIAL DAMAGES WHATSOEVER, INCLUDING LOSS OF PROFITS, WHETHER ARISING IN CONTRACT, TORT, WARRANTY OR OTHERWISE, EVEN IF IT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THE LIMITATIONS SET FORTH HERE WILL APPLY EVEN IF THE REMEDIES SETFORTH

HEREIN COMPLETELY FAIL IN THEIR ESSENTIAL PURPOSE. NOT WITHSTANDING ANY PROVISION HEREIN TO THE CONTRARY, THE USE OF THE PRODUCTS OR IMPLEMENTATION OF RECOMMENDATIONS MADE BY THE PRODUCTS OR SAFECAREATHOME SHALL NOT GIVE RISE TO ANY LIABILITY OF SAFECAREATHOME RELATED TO THE FAILURE OF ALL OR PORTIONS OF SUCH RECOMENDATIONS. SAFECAREATHOME SHALL NOT BE LIABLE FOR ANY DAMAGES RESUTING, DIRECTLY OR INDIRECTLY, FROM THE FAILURE OF THE PRODUCT TO DETECT, DIAGNOSE, TREAT, CURE, PREVENT, OR OTHERWISE RESOLVE ANY MEDICAL CONDITION. LICENSEE IS FULLY RESPONSIBLE FOR ACTIONS TAKEN TO PROVIDE CARE, AND ALL SUCH ACTIONS SHOULD BE UNDERTAKEN IN CONSULTATION WITH A LICENSED MEDICAL PROFESSIONAL.

**9.02 SECURITY DEVICES.**

LICENSEE ACKNOWLEDGES THAT THE LICENSED PRODUCTS MAY CONTAIN ACCESS RESTRICTION FEATURES THAT MAY BE ACTIVATED FOLLOWING AN UNCURED MATERIAL BREACH BY LICENSEE OR UPON THE EXPIRATION OR TERMINATION OF THIS AGREEMENT. UPON ACTIVATION, SUCH ACCESS RESTRICTION FEATURES MAY ALTER OR PREVENT THE FUNCTIONALITY OF THE LICENSED PRODUCTS. LICENSEE ACKNOWLEDGES AND AGREES THAT SUCH ACCESS RESTRICTION FEATURES ARE NECESSARY TO PROTECT SAFECAREATHOME'S INTELLECTUAL PROPERTY RIGHTS. SAFECAREATHOME WILL HAVE NO LIABILITY WHATSOEVER FOR ANY OUTCOMES CAUSED BY THE RIGHTFUL ACTIVATION OF SUCH ACCESS RESTRICTION FEATURES IN ACCORDANCE WITH THIS SECTION.

**9.03 GENERAL INDEMNIFICATION.**

Licensee will indemnify and hold harmless SAFECAREatHome, its employees and agents, from and against any claims, demands, loss, damage or expense relating to bodily injury or death of any person or damage to real and/or tangible personal property related to Licensee's use of the Product and the provision of care based on the content and information provided via the Product.

**9.04 INDEMNIFICATION PROCEDURE.**

To receive the foregoing indemnities, the party seeking indemnification must notify the other in writing of a claim or suit promptly and provide it with reasonable cooperation (at the indemnifying party's expense) and full authority to defend or settle the claim or suit. Neither party will have any obligation to indemnify the other for any settlement made without its written consent.

**9.05 ACKNOWLEDGEMENT.**

THE PARTIES ACKNOWLEDGE THAT THE LIMITATIONS ON RECOVERABLE DAMAGES IN THIS AGREEMENT CONSTITUTE A BARGAINED-FOR ALLOCATION OF RISKS BETWEEN SAFECAREATHOME AND LICENSEE, EACH OF WHICH IS A SOPHISTICATED PARTY AS

REGARDS SUCH TRANSACTIONS. LICENSEE ACKNOWLEDGES THAT SUCH AN ALLOCATION OF RISK IS ESSENTIAL TO SAFECAREATHOME'S AGREEMENT TO LICENSE THE SOFTWARE.

**X. GENERAL PROVISIONS.**

The following provisions apply to this Agreement: (a) Notices. All notices under this Agreement shall be given in writing via overnight mail or by facsimile to such address or fax number as a Party may designate, or if no such designation has been made, then to the primary offices of such Party as indicated on their website. All such notices given in accordance hereunder shall be deemed as given as of the date received. (b) Headings. The Section headings in this Agreement are for identification purposes only and shall not affect the interpretation of this Agreement or any part hereof. (c) Waiver. The waiver by a Party of any breach of any provision of the Agreement by the other Party shall not be construed to be either a waiver of that Party's rights regarding any succeeding breach of any such provision or a waiver of the provision itself. (d) Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed to be an original and both together shall be deemed to be one and the same agreement. (e) Negotiated Agreement. The provisions of this Agreement were negotiated by the Parties and this Agreement shall be deemed to have been drafted by the Parties, notwithstanding any presumptions at law to the contrary. Any purchase order or other instrument issued by Licensee covering the subject matter herein is for Licensee's internal purposes only and all terms and conditions contained therein will be of no force or effect. (f) Amendments. This Agreement may be altered, changed, added to, deleted from or modified only by an agreement in writing executed by the Parties. (g) Assignment. Neither party may assign this Agreement without the written consent of the other party (which will not be unreasonably withheld or delayed) except that this Agreement may be assigned in its entirety by SAFECAREatHome or Licensee by operation of law, merger, asset or stock sale or transfer, or otherwise to a party controlling, controlled by or under common control with SAFECAREatHome or Licensee, respectively, provided that notice of any such permitted assignment be given to the non-assigning party prior to any such assignment and provided further that all terms of this Agreement be fully binding on such assignee. (h) Choice of Law; Venue. Any litigation relating to this Agreement shall be filed and conducted in the state or federal courts serving St. Louis County, Missouri, and this Agreement shall be interpreted in accordance with and governed by the laws of the State of Missouri, without regard for any conflict of law principles. The Parties hereby irrevocably waive any objection which either may now or hereafter have to the laying of venue of any actions or proceedings arising out of or in connection with this Agreement brought in the courts referred to in the preceding sentence and hereby further irrevocably waive and agree not to plead or claim in any such court that any such action or proceeding brought in any such court has been brought in an inconvenient forum. (i) Attachments. All attachments, schedules, exhibits and agreements referenced in this Agreement are integral to this Agreement and are hereby incorporated by reference. In the event of a conflict between this Agreement and any such

attachment, the terms of this Agreement shall control. (j) Expenses. Licensee shall be responsible to reimburse SAFECAREatHome for all reasonable out-of-pocket costs and expenses incurred by SAFECAREatHome, including, but not limited to, reasonable costs and expenses relating to: shipping and handling, airfare, rental cars, travel, food, lodging and other incidental expenses. (k) Taxes. SAFECAREatHome may invoice Licensee the amount of any federal excise taxes or state or local sales taxes imposed upon the sale of Material or provision of Services as separate items, if applicable, listing the taxing jurisdiction imposing the tax. Installation, labor, and other non-taxable charges must be separately stated. Licensee agrees to pay all applicable taxes to SAFECAREatHome which are state on and at the time the Material or Service invoice is submitted by SAFECAREatHome. SAFECAREatHome agrees to remit taxes to the appropriate taxing authorities. (l) Force Majeure. Neither party will be liable for any delays or failures in performance due to circumstances beyond its control, including, without limitation, acts of God, acts or omissions of carriers, governmental regulations or actions imposed after the fact, storms, fire, communication line failures, power and equipment failures, earthquakes or other disasters or events. (m) Severability. If a court finds any term of this Agreement invalid, illegal or otherwise unenforceable, the same will not affect the other terms hereof or the whole of this Agreement, but such term will be deemed modified to the extent necessary to render such term enforceable, and the rights and obligations of the parties will be construed and enforced accordingly, preserving to the fullest permissible extent the intent of the parties herein set forth. (n) Entire Agreement. This Agreement represents the entire agreement of the parties related to the licensing of the Licensed Products and supersedes all other such agreements. (o) Export Control. Licensee agrees to comply with and be responsible for understanding any and all export regulations and rules now in effect or that may be issued from time to time by the Office of Export Administration of the United States Department of Commerce or any other governmental authority that has jurisdiction relating to export laws. Licensee agrees to comply fully and strictly with the export controls and laws of any country in which it does, or intends to do, business. SAFECAREatHome agrees to provide Licensee with sufficient technical information concerning the Licensed Products so that Licensee may make application for a U. S. export license and SAFECAREatHome agrees to assign any existing SAFECAREatHome obtained export license for Licensee's use in exporting the Licensed Products.

#### **XI. DEFINITIONS.**

- a. **“Application Programming Interface” or “API”** means a publicly accessible interface defining the ways by which an application program may request services from libraries and/or software.
- b. **“Software as a Service” or “SaaS”** means a model of software deployment whereby a provider licenses an application to customers for use as a service on demand.
- c. **“Software Development Kit” or “SDK”** means a set of development tools that allows a software engineer to create applications for a

certain software package, software framework, hardware platform, computer system, video game console, operating system, or similar platform.

- d. **“Source Code”** means the collection of computer programming files needed to convert from human-readable form to a computer-executable form.