**MOBILE APPLICATION TERMS AND CONDITIONS**

EFFECTIVE: 30 SEPTEMBER 2020

YOU SHOULD READ CAREFULLY THE FOLLOWING TERMS AND CONDITIONS BEFORE UTILIZING THE APPLICATION. By installing and utilizing the Application you acknowledge your acceptance of the terms and conditions of this Mobile Application User Agreement (“Agreement”). If you do not agree to the terms and conditions of this Agreement, then do not utilize the Application.

If you purchased this Application from a central Application marketplace operated by anyone other than American Care, Inc. (“AC”), such as the Apple App Store or the Google Play Store (a “Store”), then you shall be entitled to a refund in accordance with the terms and conditions applicable to that particular store.

If you are entering into this Agreement on behalf of an organization, all reference to “you” or “user” in this Agreement shall mean collectively the organization and the user of the Application. In such instance, by installing and utilizing the Application you represent and warrant that you have the authority to enter into this agreement on behalf of the organization, and that the organization agrees to be bound by all of the terms of this Agreement.

The Application offers the patients of AC a secure electronic access to portions of their medical record and other services set forth below. This Agreement assumes that you wish to utilize the Application to access the services and functionality provided by it. If the forgoing is not true do not accept this Agreement because your license to use the Application is limited to use in conjunction with these terms and conditions.

This Agreement is effective as of the day you first download the Application or first access the Application, whichever is later (“Effective Date”), by and between American Care, Inc., with its principle place of business located at \_\_\_12171 SW 268 Street Homestead, FL 33032\_\_\_\_ and contact information of (305) 278-0200 or info@americancare.net, and you (“User”). For the sake of clarity, if you downloaded or otherwise obtained the Application from a Store, the operator or owner of that Store (the “Proprietor”) is neither a party to this license nor responsible for the Application in any way. In consideration of the promises and the mutual obligations of the parties set forth herein, and for other good and valuable consideration, the adequacy and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. **Application**. This Application may be propriety work of AC or may be the propriety work of third parties who have granted AC the right to sublicense the Application.

2. **License to Application**. AC hereby grants to User a limited, non-exclusive, non-transferable, non-assignable license to install on one and use the object code of the Application on one device (e.g., computer, smart phone, or tablet) solely for use by one User at one time. User may not (i) install Applications on computer products designed to allow simultaneous access by multiple end users, such as those in a server or mainframe environment, or (ii) install Application in a way to allow their utilization by anyone other than a human – computerized utilization of Applications is not allowed. User is responsible for ensuring that User has appropriate hardware, software, and connectivity to enable the Application to function in accordance with the documentation for the Application. User is solely responsible for ensuring that User’s use of the Application is in keeping with the rights granted herein. User is responsible for keeping the Application up to date, including downloading and installing any new versions that may become available after installation. User is responsible for exercising appropriate care in all respects when using the Application so as to ensure User’s wellbeing and security and the wellbeing and security of those around User.

3. **Reservation of Rights.** AC reserves all rights not expressly granted in Section 2 of this Agreement. Except as provided therein, User may not copy, use, sublicense, modify, adapt, or create derivative works of the Application or related documentation or remove any copyright or other propriety rights notices. AC reserves the right to suspend or terminate access by any User accessing the Application if such use represents a breach of the terms and conditions to this Agreement, without prejudice to any other remedies available to AC. All rights granted herein are a license, not a sale. Other than the rights licensed to User hereunder, User has no other implied license or right of any kind regarding the foregoing. User shall not itself, and shall not permit any other party to, directly or indirectly, in whole or in part, sublicense, distribute, lease, make available as a service bureau or otherwise allow any third parties any right or access to the Application; disassemble, decompile, decrypt, or reverse engineer, or otherwise attempt to discover or replicate source code for the Application. User acknowledge and agrees that AC owns and retains all rights existing from time to time in any jurisdiction under copyright law, patent law, moral rights law, trade secret law, confidential information law, trademark law, unfair competition law or other similar rights (“Proprietary Rights”) in Application, documentation, any training materials and any copies, modifications, adaptations, derivative works, and enhancements thereof, by whom ever produced. User agrees that any threated or actual breach of AC Proprietary Rights by User shall constitute immediate, irreparable harm to AC for which monetary damages is an inadequate remedy and for which equitable remedies may be awarded by a court of competent jurisdiction without requiring AC to post any bond or any other security (or if a court shall require a bond, then a bond in no amount above U.S. $1,000). Nothing contained herein shall limit either party’s right to any remedies at law, including the recovery of damages or breach of this Agreement.

4. **Permitted Use of the Application**. AC grants User access to make personal use of the Application and not to download (other than page caching) or modify the Application, or any portion of it, except with tools provided by the Application or with the express written consent of AC. User is not permitted to sell access to the Application or any of its contents. User is not permitted to make or establish a derivative use of the Application or its contents; or download or copy any information for the benefit of another party - except as my otherwise be allowed by the Application (e.g. parent/guardian/minor relationship). Use of data mining, robots, or similar data gathering and extraction tools is prohibited. The Application or any portion of it may not be reproduced, duplicated, copied, sold, resold, visited, or otherwise exploited for any commercial purpose.

5. **Prohibited Acts.** User is prohibited from violating or attempting to violate the security of the Application, including, without limitation, (a) accessing data not intended for the User or logging onto a server or an account which the User is not authorized to access; (b) attempting to probe, scan or test the vulnerability of a system or network or to breach security or authentication measures without proper authorization; or (c) accessing or using the Application or any portion thereof without authorization, in violation of these Agreement or in violation of applicable law. Violations of system or network security may result in civil or criminal liability. AC will investigate occurrences that may involve such violations and cooperate with law enforcement authorities in prosecuting users who are involved in such violations. User agree not to use any device, software or routine to interfere or attempt to interfere with the proper working of the Application or any activity being conducted on the Application. User may not frame or utilize framing techniques to enclose any trademark, logo, or other proprietary information (including images, text, page layout, or form) of AC or third-party providers without express written consent. You may not use any meta tags or any other "hidden text" utilizing AC’s name or trademarks without the express written consent of AC. Any unauthorized use terminates the permission or license granted by AC. You may not use any AC logo or other proprietary graphic or trademark as part of a link or otherwise without express written permission.

6. **Services.** The Application provides access to the following information and services:

* Details regarding User’s health record and diagnoses;
* Prescription medications;
* Select laboratory and/or test results;
* Making and tracking appointments; and
* Information related to American Care, Inc.

The Application is not intended to provide remote diagnostic medical services. Also, the following limitations apply:

* No remote based triage and treatment requests. Diagnosis can only be made and treatment rendered after the patient schedules and SEES the doctor;
* No emergent communications or services. Any emergent condition should be seen by urgent care, emergency department, or 911; and
* No request for narcotic pain medication will be accepted or request for re-fill medication not currently being treated by the physician.

6. **Accuracy and Integrity of Information.** Although AC attempts to ensure the integrity and accurateness of the Application and its content, it makes no representations, warranties or guarantees as to the correctness or accuracy of the Application and Content (which is defined to include the User’s medical record). It is possible that the content could include typographical errors, inaccuracies or other errors, and that unauthorized additions, deletions and alterations could be made to the Application or content by third parties. In the event that an inaccuracy arises, please inform AC so that it can be corrected. Information contained on the Application may be changed or updated without notice. Additionally, AC shall have no responsibility or liability for information or content posted to the Application from any health care provider or third party that is not a part of American Care, Inc.

7. **Privacy and Security.** American Care, Inc.’s Privacy Policy is hereby incorporated by reference. The data is HIPAA and HITECH compliant with high level encryption that meets HIPAA and HITECH standards. While AC believes that the IT infrastructure and data are safe and secure, AC does not guarantee unforeseen adverse events cannot occur. User should read American Care, Inc.’s HIPAA policy and Notice of Privacy Policy for information on how private health information is used by American Care, Inc. All patients have signed a HIPAA agreement form. If User does not recall having signed a HIPAA agreement or needs to reacquaint with the HIPAA policy, User should contact AC to obtain a copy.

User is responsible for maintaining the confidentiality of User’s UserID and password and for restricting access to the devices on which this Application is downloaded by the User. USER AGREES NOT TO SHARE OR DISCLOSE USER’S USERID OR PASSWORD TO ANY THIRD PARTY. Access to this secure Application is an optional service and may be suspended or terminated at any time for any reason. User agrees not to hold AC or any of its staff or physicians liable for network or security infractions beyond AC’s control. AC provides this Application for the exclusive use of its established patients. The Application is designed to enhance patient and physician communications. All Users must be established by a previous visit. AC strives to keep all the information in User’s records correct and complete. If User identifies any discrepancy in the medical record, User agrees to notify AC immediately. Additionally, by using the Application, the User agrees to provide factual and correct information. The information on the Application is maintained by AC at its current physical facility. For questions about this Application, contact AC at (305) 278-0200\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

8. **General Warranty Disclaimer.** AMERICAN CARE, INC. AND ITS HEALTH CARE PROVIDERS DO NOT WARRANT THAT ACCESS TO OR USE OF THE APPLICATION WILL BE UNINTERRUPTED OR ERROR-FREE OR THAT DEFECTS IN APPLICATION WILL BE CORRECTED. THE APPLICATION, INCLUDING ANY CONTENT OR INFORMATION CONTAINED WITHIN IT OR ANY APPLICATION-RELATED SERVICE, IS PROVIDED "AS IS," WITH ALL FAULTS, WITH NO REPRESENTATIONS OR WARRANTIES OF ANY KIND, EITHER EXPRESSED OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, QUALITY OF INFORMATION, QUIET ENJOYMENT, AND TITLE/NON-INFRINGEMENT. AMERICAN CARE, INC. AND ITS HEALTH CARE PROVIDERS SPECIFICALLY DISCLAIM ALL LIABILITY FOR ERRORS OR OMISSIONS IN, OR THE MISUSE OR MISINTERPRETATION OF, ANY INFORMATION OBTAINED THROUGH THE APPLICATION. AMERICAN CARE, INC. DOES NOT WARRANT THE ACCURACY, COMPLETENESS OR TIMELINESS OF THE INFORMATION OBTAINED THROUGH THE APPLICATION. USER ASSUMES TOTAL RESPONSIBILITY AND RISK FOR USER’S USE OF THE APLICATION, APPLICATION-RELATED SERVICES, AND THIRD-PARTY LINIKS. AMERICAN CARE, INC. DOES NOT WARRANT THAT FILES AVAILABLE FOR DOWNLOAD WILL BE FREE OF VIRUSES, WORMS, MALWARE, TROJAN HORSES OR OTHER DESTRUCTIVE PROGRAMMING. USER IS RESPONSIBLE FOR IMPLEMENTING PROCEDURES SUFFICIENT TO SATISFY USER’S NEEDS FOR DATA BACK UP AND SECURITY. USER AGREES THAT AMERICAN CARE, INC. SHALL NOT BE LIABLE FOR ANY COST OR DAMAGE ARISING DIRECTLY OF INDIRECTLY FROM ANY USE OF THE APPLICATION. USER ASSUMES TOTAL RESPONSIBILITY AND RISK FOR USER’S USE OF THE APPLICATION AND OF THE INTERNET.

9. **Limitation of liability regarding use of the Application.** AMERICAN CARE, INC. AND ANY THIRD PARTIES ASSOCIATED WITH THE APPLICATION ARE NEITHER RESPONSIBLE NOR LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, EXEMPLARY, PUNITIVE, OR OTHER DAMAGES WHATSOEVER (INCLUDING, WITHOUT LIMITATION, THOSE RESULTING FROM LOST PROFITS, LOST DATA, OR BUSINESS INTERRUPTION) ARISING OUT OF OR RELATING IN ANY WAY TO THE APPLICATION, APPLICATION-RELATED SERVICES, CONTENT OR INFORMATION CONTAINED WITHIN THE APPLICATION, AND/OR ANY THIRD-PARTY LINK, WHETHER BASED ON WARRANTY, CONTRACT, TORT, OR ANY OTHER LEGAL THEORY AND WHETHER OR NOT ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. USER’S SOLE REMEDY FOR DISSATISFACTION WITH THE APPLICATION, APPLICATION-RELATED SERVICES, AND/OR THIRD-PARTY LINKS IS TO STOP USING THE APPLICATION AND/OR THOSE SERVICES. User agrees to defend, indemnify and hold American Care, Inc. harmless from and against all third party claims, damages and expenses (including reasonable attorneys’ fees) against or incurred by American Care, Inc. arising out of User’s use or access of the Application, or access by anyone accessing the Application using User’s UserID and password. If User has any basis for recovering damages from American Care, Inc. or their affiliates or third parties, User agrees by his or her use of the Application that User can only recover damages up to fifty dollars ($50). NOTE: Some or all of these limitations or exclusions may not apply to User if User’s state, province, or country does not allow the exclusion or limitation of incidental, consequential, or other damages.

10.**Third Parties**. Third party health care providers, payers, publishers and distributors may own or make available parts of the Content found on the Application. AC is not responsible for their content or the privacy practices of the third parties. AC recommends that User review the privacy and security policies of such third parties prior to use of their content. Any questions, complaints, or claims related to any such information, services or products should be directed to the appropriate third party.