

September 2016

**Center for Applied Research in Dementia
Mobile Application Terms of Service Agreement**

This Terms of Service (“**Agreement**”) sets forth the terms and conditions upon which you may download and use the mobile software application, related services, and all updates, enhancements, and upgrades provided to you (collectively, “**App**”) owned and provided by the by Center for Applied Research in Dementia, LLC (“**Provider**”) and/or its authorized distributors. “You”, “your”, “yourself” means you, as an individual.

PLEASE READ THIS AGREEMENT CAREFULLY. BY CLICKING ON THE “ACCEPT BUTTON” AND BY USING THE APP, YOU AGREE TO THE TERMS AND CONDITIONS HEREIN. IF YOU ARE AN INDIVIDUAL USING THE SERVICES ON BEHALF OF A CORPORATION, PARTNERSHIP OR OTHER ENTITY (“ENTITY”) AS AN AUTHORIZED USER, YOU REPRESENT AND WARRANT THAT YOU HAVE THE AUTHORITY TO ENTER INTO THIS AGREEMENT ON BEHALF OF SUCH ENTITY AND BIND IT TO THESE TOS. IF YOU DO NOT AGREE TO BE BOUND BY THIS AGREEMENT, PLEASE DO NOT USE THE APP. YOU MUST BE 18 YEARS OR OLDER TO USE THE APP.

You acknowledge and agree that the App is provided as a convenient tool to help organize behavioral data entered into pre-defined content fields. The App is not meant for the purpose of, and does not provide, medical advice or professional health services. If you have any medical questions, you should consult a physician or health care provider. None of the information provided on this App should be used for medical diagnosis.

Provider reserves the right to change these Terms of Service at anytime and for any reason. If Provider makes significant changes to this Agreement, a notice will be posted on its website home page or we may alert you via email. Your continued use of the App after any such notice constitutes your acceptance of any and all changes to this Agreement. The current date of this Agreement is posted at the top of this page and will be updated upon any changes to this Agreement so please check back to these TOS on a regular basis and print the latest version of this Agreement, which is available for download at www.cen4ard.com, for your records.

The App and Service

The App provides a service (“**Service**”) whereby you may enter anonymous patient data (“**Anonymous Patient Data**”) into Provider’s proprietary Care Giver Evaluation Form which includes pre-defined content fields to be filled out by end-users (“**Form**”). Upon completion of the Form, you may request the Form be emailed to you as an excel spreadsheet. Provider does not analyze or modify the Anonymous Patient Data in-put into the Form and the Service solely entails the provision of the Form and resulting excel spreadsheet. This App is not intended to and should not be construed as providing any medical advice.

2. License, Permitted Use and Restrictions

(a) Grant of License and Reservations. Subject to the terms of this Agreement, Provider grants you a limited, non-exclusive, revocable, non-transferable right and license to install and use the App for use in connection with collecting and organizing Anonymous Patient Data and related behavioral data. This App is licensed, not sold, to you by Provider for use only under the terms of this Agreement. Provider reserves all rights in the App not expressly granted to you. You may own the media upon which the App is stored, but Provider retains ownership of the App itself. You acknowledge that any use of the App not in compliance with this Agreement invalidates this license.

(b) Reverse Engineering. Except as expressly set forth in this Agreement, you agree not to reverse engineer, de-compile, disassemble, alter, duplicate, modify, rent, lease, loan, sublicense, make copies, create derivative works from, distribute or provide others with the App, in whole or part, or transmit or communicate the App over a network or to any third party. Further, you agree not to develop, sell, or distribute applications that are capable of launching, being launched from, or are otherwise integrated with, the App or content accessed through the App without Provider's express written permission.

(c) Further Restrictions. In connection with your use of the App you agree not to:

i. Transmit, access, or communicate any data that you do not have the right to transmit, access, or communicate under applicable Law (as defined below), including the Health Insurance Portability and Accountability Act of 1996 as modified by the Health Information Technology for Economic and Clinical Health Act and all rules, regulations, and related laws and acts promulgated under and in connection therewith (collectively, "HIPAA"), under similar more stringent state laws, or under a contractual or fiduciary relationship;

ii. Infringe any patent, trademark, trade secret, copyright or other proprietary rights of any third party;

iii. Transmit or communicate any data that contains software viruses or any other computer code, files, or programs designed, intended, or likely to interrupt, destroy or limit the functionality of the App and any related computer software or hardware or any telecommunications equipment;

iv. Interfere with or disrupt or circumvent the App;

v. Intentionally or unintentionally violate any applicable local, state, national or international Law, including laws relating to privacy and any regulations, requirements, procedures or policies in force from time to time relating to the App; or

vi. Transmit or communicate any data that is unlawful, harmful, false,

threatening, abusive, harassing, defamatory, vulgar, obscene, invasive of another's privacy, hateful or racially, ethnically or otherwise objectionable.

3. Anonymous Patient Data

You acknowledge and agree that: (i) the App may be used to transmit, collect, access, manage, and display **Anonymous Patient Data** by and among you and other authorized Healthcare Providers (defined below), and their employees and contractors; (ii) that Anonymous Patient Data related to your treatment of patients may be stored by Provider and/or its licensees and service providers in connection with providing the App and the Service; (iii) Anonymous Patient Data included on a Form shall not serve as the system of record for any patient, personal representative of a patient, health care provider, any business associate of a health care provider, or any affiliates of the foregoing; and (iv) **your provision and use of all Anonymous Patient Data will be in compliance with HIPAA and all other applicable Laws and that no Anonymous Patient Data will include personally identifiable information (“PII”) as that term is defined by HIPAA and amendments thereto.**

4. Medical Advice and Treatment

The App is not meant to provide medical advice, diagnosis, or treatment. You acknowledge and agree that the App is merely a conduit of Anonymous Patient Data related to patients and the provision of healthcare to patients by independent third party healthcare providers including yourself, physicians, physician assistants, nurses, paramedics, emergency care responders, other physician extenders, healthcare systems, healthcare facilities, or other providers of healthcare services (collectively, “**Healthcare Provider(s)**”). You acknowledge and agree that the Healthcare Providers are solely responsible for and will have complete authority, responsibility, supervision, and control over the provision of all healthcare and medical services, advice, instructions, therapy and treatment decisions, and other professional health care services performed, and that all diagnoses, treatments, procedures, and other professional health care services will be provided and performed exclusively by or under the supervision of Healthcare Providers as they, in their sole discretion, deem appropriate. Provider has no control, authority, or supervision over the provision of any medical services or other professional health care services that may be provided as a result of using the App and/or the Service Accordingly, you acknowledge and agree that you are solely responsible for all medical services, advice, instructions, diagnoses, treatments, procedures, and other services you provide in connection with using the App and receiving the Service.

5. End User Content

The use of the App, all Anonymous Patient Data, text, graphics, images, audio content, audiovisual content, data, other materials and any other information provided on or entered into or made available through the App, including all healthcare related information, whether provided by you, the entity or organization with which you are employed or otherwise affiliated (“**Your Organization**”), other Healthcare Providers, or other third parties (collectively, “**Content**”) is solely your responsibility. Provider will make all reasonable efforts in accordance with applicable laws and agreements to safeguard the integrity and availability of the Content. You grant Provider a perpetual,

irrevocable, royalty-free right and license to use the Content to provide the App and Service. Further, any ideas, comments or proposals submitted in connection with the App will be exclusively owner by Provider who may use all of these without attributing credit to the end user.

6. Registration

Upon registration, you agree to provide current, accurate, and complete information about you and Your Organization as may be required to register to use the App and at other points as may be required in the course of using the App, including your complete legal name, street address, phone number(s), email address, and such other information as may be requested by Provider (“**Registration Data**”). Further, you agree to maintain and update your Registration Data as required to keep it current, accurate, and complete. You agree that Provider may store and use the Registration Data you provide in connection with your use of the App and provision of the Service. Provider has the right, but not the duty, to confirm or otherwise verify or check, in its sole discretion, the truth and accuracy of any registration information at any time. Provider may terminate your rights to the entire App, if any information you provide is false, incomplete or inaccurate. By providing your email address, you agree to receive the Service and electronic notices via that email address. It is your responsibility to update or change that address as appropriate.

7. Authorized Use

Except as expressly set forth in this Agreement, you will protect the confidentiality of the App, and will not distribute or otherwise make available the App, or any portion of the App, in any form to any third party. Any rights you may possess in the App expire upon expiration or termination of this Agreement. You will employ the security measures necessary to prevent unauthorized users from accessing the App including your user ID(s) and password(s) (“**Login Information**”). You are solely responsible for the maintenance and protection of your Login Information. You accept responsibility for, and will be liable for all access to the App in connection with your Login Information and for all activity that occurs in connection with your account. Without the prior written consent of Provider, you will not utilize the services of any third party to assist you in using the App. Further, you will be responsible for all activities that occur under or in connection with your account and your use of the App.

8. Log-In Information

You grant Provider the perpetual, non-exclusive, worldwide, royalty-free irrevocable right and license to use, copy, print, display, reproduce, modify, publish, post, transmit, distribute, and preserve any transmittal communication, information or other content provided by you through the App through Login Information and data related to your use of the App. Provider may disclose any such information and content to other users of the App, Provider’s licensees, service providers, clients, researchers, and other third parties in accordance with applicable Law. Further, Provider may also use or disclose such data if required to do so by law or if Provider determines, in its sole discretion, that such use or disclosure is reasonably necessary to (1) comply with legal process, (2) enforce this Agreement, (3) respond to claims that any such data violates the rights of others, or (4)

protect the rights, property, or personal safety of Provider, its employees, and users of the App.

9. Third Party Websites

The App may contain links to other independent third party websites (“**Linked Websites**”). These Linked Websites are provided solely as a convenience to our visitors. Such Linked Websites are not under the control of Provider, and Provider is not responsible for and does not endorse the content of such Linked Websites, including any information or materials contained on such Linked Websites. Provider does not have any responsibility or liability for any information, data, communications or materials available on such third-party sites. You therefore access these Linked Websites at your own risk.

10. Export Law Assurances

You will not use or otherwise export or re-export this App except as authorized by United States law and the laws of the jurisdiction in which the App was obtained. In particular, but without limitation, the App will not be exported or re-exported (1) into (or to a national or resident of) any U.S. embargoed countries, or (2) to anyone on the U.S. Treasury Department’s list of Specially Designated Nationals or the U.S. Department of Commerce Denied Persons’ List or Entity List. By using the App, you represent and warrant that you are not located in, under control of, or a national or resident of any such country or on any such list. If you use the App outside of the United States, you do so on your own initiative and are responsible for complying with all applicable Laws and may not export the App as stated herein.

11. Trademarks

Trademarks, service marks, graphics and logos used in connection with the App are the trademarks of their respective owners. CARD™ and the trademarks related to the App are trademarks of Provider and its licensors. You are not granted any right or license with respect to any of the trademarks mentioned above and any use of such trademarks.

12. Copyright Infringement

Provider respects copyright and other laws. Provider requires all App users to comply with copyright and other laws. Provider does not, by the supply of the App, authorize you to infringe the copyright or other rights of third parties. As a condition to use the App, you agree that you must not use the App to infringe upon the intellectual property or other rights of others in any way. The unauthorized reproduction, distribution, modification, public display, communication to the public or public performance of the App and other copyrighted works is an infringement of copyright. You are solely responsible for your conduct and for ensuring that it complies with all applicable copyright and intellectual property laws.

13. App Ownership and Title

All title to and the rights in the App, including ownership rights to patents (registrations, renewals, and pending applications), copyrights, trademarks, service marks, domain names, trade dress, trade secrets, Provider’s or third party other technology, any derivatives of and all goodwill associated with the foregoing is the exclusive property of Provider and/or third parties. You may not frame or utilize framing techniques to enclose

any of the content on the App. Including any images, text or layout design or any trademark, logo or other proprietary information found on any page of the App without Provider's prior written authorization. You are entirely responsible for your conduct and for ensuring that it complies with all applicable copyright, trademark and intellectual property laws.

14. Representations & Warranties

In addition to the other representations and warranties contained in this Agreement, you further represent, warrant, and covenant to Provider the following:

(a) All information you provide to Provider as part of the App registration process, for use of the App or otherwise will be truthful, accurate and complete;

(b) You, your practice, and all goods and services provided in connection with your use of the App will comply with HIPAA and all applicable international, national, federal, state, and local laws, regulations, ordinances, and judicial decisions in courts and tribunals of competent jurisdiction within the United States (collectively, "**Law**");

(c) You are legally authorized in accordance with applicable Law to provide any and all Anonymous Patient Data that you provide to the App for all uses contemplated under this Agreement;

(d) This Agreement has been duly and validly authorized, accepted, agreed to, and delivered by you (or your authorized representative) and constitutes your legal, valid, and binding obligation, enforceable against you in accordance with this Agreement. You represent that you have full power, capacity and authority to enter into this Agreement. If you are accepting on behalf of your employer or an entity, you represent that you have full legal authority to bind your employer or such entity to this Agreement; and

(e) The performance by you of this Agreement and your use of the App does not and will not conflict with or violate (1) any law, rule, regulation, order, judgment, decree, agreement, instrument, or obligation applicable to you, or (2) if you are an entity, any provision of your organizational or governing documents.

15. Disclaimer of Warranties

THE APP AND THE SERVICE ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS WITHOUT WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING WARRANTIES OF TITLE, NON-INFRINGEMENT, AND IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, PROVIDER, ITS LICENSORS, AND SUPPLIERS MAKE NO WARRANTY, REPRESENTATION, OR GUARANTY:

(1) AS TO THE SEQUENCE, ACCURACY, TIMELINESS, RELEVANCE, OR

COMPLETENESS OF THE APP AND SERVICE;

(2) AS TO ANY INFORMATION OFFERED OR PROVIDED WITHIN OR THROUGH THE APP REGARDING TREATMENT OF MEDICAL CONDITIONS, ACTIONS, DIAGNOSES, PROCEDURES, TREATMENTS, THERAPIES, APPLICATION OF MEDICATION, OR OTHER PROVISION OF HEALTHCARE SERVICES;

(3) THAT THE APP AND/OR SERVICE MAY BE RELIED UPON FOR ANY REASON, THAT THE USE OF THE APP WILL BE UNINTERRUPTED OR ERROR FREE. FURTHER, YOUR USE OF THE APP AND SERVICE IS AT YOUR OWN RISK. PROVIDER DOES NOT WARRANT THAT THE APP OR SERVICE WILL MEET YOUR SPECIFIC REQUIREMENTS. TO THE EXTENT THAT PROVIDER MAY NOT DISCLAIM ANY WARRANTY AS A MATTER OF APPLICABLE LAW, THE SCOPE AND DURATION OF SUCH WARRANTY WILL BE THE MINIMUM PERMITTED UNDER SUCH LAW.

15. Limitation of Liability

EXCEPT WHERE PROHIBITED BY LAW, UNDER NO CIRCUMSTANCES WILL PROVIDER BE LIABLE TO YOU OR ANY OTHER PERSON FOR DIRECT, CONSEQUENTIAL, SPECIAL, INDIRECT, INCIDENTAL, PUNITIVE, OR EXEMPLARY DAMAGES OF ANY KIND INCLUDING, WITHOUT LIMITATION, PERSONAL INJURY, WRONGFUL DEATH, EMOTIONAL DISTRESS, LOSS OF USE, LOSS OF REVENUE, LOSS OF BUSINESS, LOSS OF DATA, INTERRUPTION OF SERVICE IN CONNECTION WITH THE APP, THE SERVICE OR OTHERWISE RELATED TO THIS AGREEMENT. THE PROVISIONS OF THIS SECTION WILL APPLY REGARDLESS OF THE FORM OF ACTION, DAMAGE, CLAIM, LIABILITY, COST, EXPENSE, OR LOSS, WHETHER IN CONTRACT, STATUTE, TORT (INCLUDING NEGLIGENCE), FAILURE OF ESSENTIAL PURPOSE OR OTHERWISE, AND EVEN IF ADVISED OF THE LIKELIHOOD OF SUCH DAMAGES. PROVIDER WILL NOT BE LIABLE FOR ANY FAILURE TO PERFORM ITS OBLIGATIONS UNDER THIS AGREEMENT BECAUSE OF CIRCUMSTANCES BEYOND ITS CONTROL, WHICH CIRCUMSTANCES INCLUDE NATURAL DISASTER, TERRORISM, WAR, FAILURE OF HARDWARE, EQUIPMENT, OR TELECOMMUNICATIONS FAILURE. CARD WILL NOT BE LIABLE FOR ANY FAILURE TO PERFORM ITS OBLIGATIONS UNDER THIS AGREEMENT BECAUSE OF MISUSE OF THE APP OR SERVICE BY YOU OR ANY OTHER PERSON. THIS SECTION WILL BE GIVEN FULL EFFECT EVEN IF ANY EXCLUSIVE REMEDY PROVIDED HAS FAILED OF ITS ESSENTIAL PURPOSE. FURTHER, IN NO EVENT WILL CARD BE LIABLE TO YOU OR ANYONE ELSE FOR ANY CLAIMS, LOSSES, OR DAMAGES ARISING OUT OF ANY USE OR MISUSE OF ANY THIRD PARTY TECHNOLOGY. IN NO EVENT SHALL THE LIABILITY OF PROVIDER FOR ANY LOSS RELATED TO USE OR INABILITY TO USE THE APP EXCEED \$5.00 U.S.

17. Indemnification

YOU WILL INDEMNIFY, DEFEND, AND HOLD INDEMNITEES (AS DEFINED BELOW) CARD ITS AFFILIATES AND THEIR RESPECTIVE DIRECTORS, EMPLOYEES, CONTRATORS HARMLESS FROM AND AGAINST ANY AND ALL CLAIMS AND LOSSES ARISING FROM OR ATTRIBUTABLE TO (1) YOUR PROVISION OF MEDICAL AND/OR HEALTH SERVICES AND TREATMENT OF PATIENTS IN CONNECTION WITH YOUR USE OF THE APP, SERVICE OR OTHERWISE; (2) YOUR BREACH OF ANY OF YOUR REPRESENTATIONS, WARRANTIES, COVENANTS, OR OTHER AGREEMENTS MADE UNDER THIS AGREEMENT; (3) ANY CLAIMS BY OR DISPUTES RELATED TO YOUR USE OF THE APP AND/OR SEVICE; (4) ANY CONTENT YOU PROVIDE OR OTHERWISE TRANSMIT USING THE APP; (5) YOUR OR YOUR ORGANIZATION'S BREACH OF HIPAA AND ANY APPLICABLE LAWS; (6) ANY CLAIM THAT A PATIENT'S CONDITION OR DISEASE WAS NOT DIAGNOSED OR MISDIAGNOSED AS THE RESULT OF USE OF THE APP OR SERVICE; AND (7) ANY PRODUCT LIABILITY, PERSONA INJURY, DEATH OR DAMAGE OR DESTRUCTION OF PROERTY OR PREMISES RESULTING FROM YOUR USE OF THE APP OR SERVICE. Provider agrees to notify you promptly of any such claim in writing and will give you all information known to it relating thereto and will cooperate with you in the settlement or defense of any such claim. You shall reimburse Provider for any reasonable out-of-pocket expenses incurred by Provider in providing cooperation requested by you.

18. Term and Termination

Unless otherwise terminated by Provider as provided for in this Agreement, this Agreement will remain in effect for so long as Provider licenses the use of the App to you. Provider may, in its sole discretion and without prior notice, terminate your access to the App for violations of this Agreement or other agreements or guidelines, which may be associated with your use of the App, or if Provider deems it necessary in its sole discretion. Further, Your Organization may terminate, or request that Provider terminate your access to the App. In any such event, you must destroy all copies of the App and all of its component parts. Failure to abide by this Agreement is a material breach of this Agreement for which Provider may pursue all rights and remedies it has pursuant to this Agreement, and any other rights and remedies it may have at law or in equity. You also agree that any violation by you of this Agreement will constitute an unlawful and unfair business practice and will cause irreparable harm to Provider, for which monetary damages would be inadequate, and you consent to Provider obtaining any injunctive or equitable relief that Provider deems necessary or appropriate in such circumstances without the need to post a bond or satisfy any similar requirements. These remedies are in addition to any other remedies Provider may have at law or in equity.

19. General Provisions

(a) Entire Agreement. This Agreement and any other terms of use, or other guidelines (collectively, "**Other Terms**") provided by Provider through or in connection with the App contain the entire understanding of the parties with respect to the subject matter of this Agreement and supersede all previous verbal and written agreements between the parties concerning the subject matter of this Agreement. To the extent that any Other Terms conflict with any provision of this Agreement, this Agreement will control. The App is the property of Provider. Provider reserves the right to change, add or remove portions of this Agreement or the App at any time and at its sole discretion. Your

continued use of the App following the posting or delivery to you of any changes means that you accept and agree to such changes.

(b) Governing Law/Waiver of Trial by Jury.

i. You agree that all matters relating to your access to or use of the App, including all disputes, will be governed by the laws of the United States and by the Laws of the State of Ohio without regard to its conflicts of laws provisions. You agree to the personal jurisdiction by and venue in the state and federal courts in Cuyahoga County, Ohio, and waive any objection to such jurisdiction or venue. This Agreement will not be governed by the United Nations Convention on Contracts for the International Sale of Goods, the application of which is expressly excluded. If for any reason a court of competent jurisdiction finds any provision, or portion of any provision, to be unenforceable, the remainder of this Agreement will continue in full force and effect.

ii. EXCEPT WHERE PROHIBITED BY LAW, THE PARTIES EXPRESSLY WAIVE TRIAL BY JURY IN ANY JUDICIAL PROCEEDING INVOLVING ANY DISPUTE, CONTROVERSY, OR CLAIM ARISING OUT OF OR RELATING TO THIS AGREEMENT

(c) Limitation on Claims. All claims brought in connection with this Agreement by you must be brought within one (1) year after the claim was known by you.

I ACCEPT THESE TERMS AND CONDITIONS