

SmileWise Corporate BVBA END-USER LICENCE AGREEMENT

Version: April 20th, 2018

IMPORTANT: BY CLICKING ON THE “ACCEPT” BUTTON OR TICKING TO ACCEPT THESE TERMS, YOU ARE AGREEING (i) TO BE BOUND BY THE TERMS OF THE SMILEWISE END USER LICENCE AGREEMENT INCLUDING THE SMILEWISE PRIVACY POLICY AND (ii) TO US COLLECTION AND USING YOU NAME, PICTURE (SELFIE), E-MAIL ADDRESS, MOBILE PHONE NUMBER AND/OR POSTCODE TO RESPOND TO USER QUESTIONS, FOR PRODUCT DEVELOPMENT AND FOR MARKETING PURPOSES.

SMILEWISE CORPORATE BVBA END USER LICENCE AGREEMENT

BEFORE CLICKING ON THE “ACCEPT” BUTTON OR TICKING TO ACCEPT THESE TERMS, PLEASE READ THIS LICENSE AGREEMENT CAREFULLY.

This end-user licence agreement (EULA) is a legal agreement between you (End-user or you) and the private limited liability company (“*besloten vennootschap met beperkte aansprakelijkheid*”) SmileWise Corporate, whose registered office is Zuiderlaan 1-3, box 8, Ghent, Belgium, incorporated and registered in Belgium under company registration number 0694.872.960 (Licensor, us or we), for: SmileWise mobile application software and the associated media including the SmileWise online portal (App).

We licence use of the App to you on the basis of this EULA and subject to any rules or policies applied by any Appstore provider or operator from whose site (Appstore), the End-user downloaded the App (Appstore Rules). We do not sell the App to you. We remain the owners of the App at all times.

By clicking on the “Accept” button or ticking to accept these terms you agree to the terms of the licence which will bind you. The terms of the licence include, in particular, the privacy policy defined in condition A.5 and limitations on liability in condition E.

If you do not agree to the terms of this licence by pressing the “Accept” button or ticking to accept these terms, we will not license the App to you and any use will be unauthorised. As a consumer, you have the right to decline the terms of the licence without charge and without any reason before using the App. However, you will lose the right to decline the licence once you begin to use the App.

You are advised keep a copy of this EULA for future reference.

Agreed Terms:

A) ACKNOWLEDGEMENTS

A.1 The terms of this EULA apply to the App or any of the services accessible through the App (Services), including any updates or supplements to the App or any Service, unless they come with separate terms, in which case those terms apply. If any open-source software is included in the App or any Service, the terms of an open-source licence may override some of the terms of this EULA.

A.2 We may change these terms at any time by updating the terms on our websites. The new terms may be displayed on-screen and you may be required to read and accept them to continue your use of the Services.

A.3 From time to time updates to the App may be issued through the Appstore or through the SmileWise MDM. Depending on the update, you may not be able to use the Services until you have downloaded or streamed the latest version of the App and accepted any new terms.

A.4 You will be assumed to have obtained permission from the owners of any mobile telephone or handheld devices that are controlled, but not owned, by you and described in condition B.2(a) (Devices) and to download or stream a copy of the App onto the Devices. You and they may be charged by you and their service providers for internet access on the Devices. You accept responsibility in accordance with the terms of this EULA for the use of the App or any Service on or in relation to any Device, whether or not it is owned by you.

A.5 The terms of our privacy policy from time to time, available <https://perspective.staging.condorscan.pro/assets/site/terms-and-conditions.pdf> (Privacy Policy) are incorporated into this EULA by reference and apply to any Services that are not specified as having separate privacy policies. Please note that some information which we request may be sensitive personal data; by entering this you will be consenting to our retaining to enhance the efficacy of the App for you. Additionally, by using the App or any Service, you acknowledge and agree that internet transmissions are never completely private or secure. You understand that any message or information you send using the App or any Service may be read or intercepted by others, even if there is a special notice that a particular transmission is encrypted.

A.6 By using the App or any of the Services, you consent to us collecting and using:

- (a) technical information about the Devices and related software, hardware and peripherals for Services that are internet-based or wireless to improve our products and to provide any Services to you;
- (b) your name, picture (selfie), e-mail addresses, mobile phone number and/or postcode to respond to user questions, for product development and for marketing purposes;
- (c) your anonymised health data to gather insights across groups of people who use the App or any Service.

A.7 Certain Services will make use of location data sent from the Devices. You can turn off this functionality at any time by turning off the location services settings for the App on the Device. If you use these Services, you consent to us and our affiliates' and licensees' transmission, collection, maintenance, processing and use of your location data and queries to provide and improve location-based products and services. You may withdraw this consent at any time by turning off the location services settings.

A.8 The App or any Service may contain links to other independent third-party websites (Third-party Sites). Third-party Sites are not under our control, and we are not responsible for and do not endorse their content or their privacy policies (if any). You will need to make your own independent judgement regarding your interaction with any Third-party Sites, including the purchase and use of any products or services accessible through them.

A.9 Any words following the terms including, include, in particular or for example or any similar phrase shall be construed as illustrative and shall not limit the generality of the related general words.

B) GRANT AND SCOPE OF LICENCE

B.1 In consideration of you agreeing to abide by the terms of this EULA, we grant you a non-transferable, non-exclusive licence to use the App on the Devices, subject to these terms, the Privacy Policy and the Appstore Rules, incorporated into this EULA by reference. We reserve all other rights.

B.2 You may:

(a) download a copy of the App onto one device, or on more than one device so long as they are for use by the same user, and to view, use and display the App on the Devices for your personal purposes only or for more than one person using the same device, or in connection with the business of the provision of care.

C) LICENCE RESTRICTIONS

C.1 Except as expressly set out in this EULA or as permitted by any local law, you agree:

- (a) not to copy the App except where such copying is incidental to normal use of the App, or where it is necessary for the purpose of back-up or operational security;
- (b) not to rent, lease, sub-license, loan, translate, merge, adapt, vary or modify the App;
- (c) not to make alterations to, or modifications of, the whole or any part of the App, or permit the App or any part of it to be combined with, or become incorporated in, any other programs;
- (d) not to disassemble, decompile, reverse-engineer or create derivative works based on the whole or any part of the App or attempt to do any such thing except to the extent that such actions cannot be prohibited because they are essential for the purpose of achieving inter-operability of the App with another software program, and provided that the information obtained by you during such activities:
 - (i) is used only for the purpose of achieving inter-operability of the App with another software program;
 - (ii) is not unnecessarily disclosed or communicated without our prior written consent to any third party;and
- (iii) is not used to create any software that is substantially similar to the App;
- (e) to keep all copies of the App secure and to maintain accurate and up-to-date records of the number and locations of all copies of the App;
- (f) to include our copyright notice on all entire and partial copies you make of the App on any medium;
- (g) not to provide or otherwise make available the App in whole or in part (including object and source code), in any form to any person without prior written consent from us; and
- (h) to comply with all technology control or export laws and regulations that apply to the technology used or supported by the App or any Service (Technology), together Licence Restrictions.
- (i) To the extent that you upload any content through the use of the App, to represent that you own all rights in, or have authorisation or are otherwise legally permitted to upload, such content and that such content does not violate any terms of service applicable to the App.

D) ACCEPTABLE USE RESTRICTIONS

D.1 You must:

- (a) not use the App or any Service in any unlawful manner, for any unlawful purpose, or in any manner inconsistent with this EULA, or act fraudulently or maliciously, for example, by hacking into or inserting malicious code, including viruses, or harmful data, into the App, any Service or any operating system;
- (b) not infringe our intellectual property rights or those of any third party in relation to your use of the App or any Service, including the submission of any material (to the extent that such use is not licensed by this EULA);
- (c) not transmit any material that is defamatory, offensive or otherwise objectionable in relation to your use of the App or any Service;
- (d) not use the App or any Service in a way that could damage, disable, overburden, impair or compromise our systems or security or interfere with other users; and

(e) not collect or harvest any information or data from any Service or our systems or attempt to decipher any transmissions to or from the servers running any Service.

E) LIMITATION OF LIABILITY

E.1 You acknowledge that the App has not been developed to meet your individual requirements, and that it is therefore your responsibility to ensure that the facilities and functions of the App meet your requirements.

E.2 We only supply the App for domestic and private use, and in connection with the business of the provision of care. You agree not to use the App for any other commercial, business or resale purposes, and we have no liability to you for any loss of profit, loss of business, business interruption, or loss of business opportunity.

E.3 We are only responsible for loss or damage you suffer that is a foreseeable result of our breach of this EULA or our negligence up to the limit specified in condition E.6, but we are not responsible for any unforeseeable loss or damage. Loss or damage is foreseeable if it is an obvious consequence of our breach or if they were contemplated by you and us at the time we granted you the EULA.

E.4 The App is intended as an aid to care, but no warranty or guarantee can be given that it will provide the facilities it is intended to provide in all circumstances; total reliance should not therefore be placed on it and in particular on the sensor forming part of it, connectivity, software and hardware resilience or other circumstances. No liability can be accepted for any failure of the App to detect a specific occurrence or to give notification of a particular occurrence. You acknowledge and agree that no medical advice, medical service, medical information or other medical engagement is provided through the App or otherwise by us or by anyone on our behalf, and that you are installing and (if applicable) using the App at your own risk, without any reliance, assumption, expectation, or intent whatsoever that the App or we shall provide you any medical advice, medical service, medical information or other medical engagement.

E.5 We will not be liable for any loss nor will you be entitled to reimbursement if the services provided through the App are discontinued.

E.6 Our maximum aggregate liability under or in connection with this EULA (including your use of any Services) whether in contract, tort (including negligence) or otherwise, shall in all circumstances be limited to a sum equivalent to the fees we receive from you for the App in the 12 months immediately prior to written notification of the claim. This does not apply to the types of loss set out in condition E.7.

E.7 Nothing in this EULA shall limit or exclude our liability for:

- (a) death or personal injury resulting from our negligence;
- (b) fraud or fraudulent misrepresentation; and
- (c) any other liability that cannot be excluded or limited by law.

F) INTELLECTUAL PROPERTY RIGHTS

F.1 You acknowledge that all intellectual property rights in the App and the Technology anywhere in the world belong to us or our licensors, that rights in the App are licensed (not sold) to you, and that you have no rights in, or to, the App or the Technology other than the right to use each of them in accordance with the terms of this EULA.

F.2 You acknowledge that you have no right to have access to the App in source-code form.

G) TERMINATION

G.1 We may terminate this EULA immediately by written notice to you:

- (a) if you commit a material or persistent breach of this EULA which you fail to remedy (if remediable) within 14 days after the service of written notice requiring you to do so;
- (b) if you breach any of the Licence Restrictions or the Acceptable Use Restrictions; and

G.2 On termination for any reason:

- (a) all rights granted to you under this EULA shall cease;
- (b) you must immediately cease all activities authorised by this EULA, including your use of any Services;
- (c) you must immediately delete or remove the App from all Devices, and immediately destroy all copies of the App then in your possession, custody or control and certify to us that you have done so;
- (d) we may remotely access the Devices and remove the App from all of them and cease providing you with access to the Services.

H) COMMUNICATION

H.1 If you wish to contact us in writing, or if any condition in this EULA requires you to give us notice in writing, you can send this to us by e-mail or by prepaid post to SmileWise Corporate BVBA, Zuiderlaan 1-3, box 8, 9000 Ghent, Belgium or info@smilewise.be. We will confirm receipt of this by contacting you in writing, normally by e-mail.

H.2 If we have to contact you or give you notice in writing, we will do so by e-mail or by pre-paid post to the address you provide to us in your request for the App.

I) FORCE MAJEURE

I.1 We will not be liable or responsible for any failure to perform, or delay in performance of, any of our obligations under this EULA that is caused by any act or event beyond our reasonable control, including failure of public or private telecommunications networks (Event Outside Our Control).

I.2 If an Event Outside Our Control takes place that affects the performance of our obligations under this EULA:

- (a) our obligations under this EULA will be suspended and the time for performance of our obligations will be extended for the duration of the Event Outside Our Control; and
- (b) we will use our reasonable endeavours to find a solution by which our obligations under this EULA may be performed despite the Event Outside Our Control.

J) CLOUD STORAGE

J.1 You agree that your data will be stored in the cloud. The cloud service used is Typeform for the storage of the pictures (selfies) and Jivochat for all the information received by chat. Both Typeform and Jivochat satisfies highest security and privacy standards. Both Typeform and Jivochat are both a secure, durable technology platform with industry-recognised certifications across multiple geographies. Typeform and Jivochat services and data centres have multiple layers of operational and physical security to ensure the integrity and safety of your data.

J.2 Your data or personal information may be processed, stored, and transferred in a server located in an area outside of your resident country. You consent to this processing, storage, and transfer of your data or personal information outside of your own country.

J.3 Your data is encrypted when in transit from your handset to the cloud.

J.4 AWS audit logs keep track of who is accessing your data at all times.

K) FURTHER IMPORTANT TERMS

K.1 We may transfer our rights and obligations under this EULA to another organisation, but this will not affect your rights or our obligations under this EULA.

K.2 You may only transfer your rights or obligations under this EULA to another person if we agree in writing.

K.3 If we fail to insist that you perform any of your obligations under this EULA, or if we do not enforce our rights against you, or if we delay in doing so, that will not mean that we have waived our rights against you and will not mean that you do not have to comply with those obligations. If we do waive a default by you, we will only do so in writing, and that will not mean that we will automatically waive any later default by you.

K.4 Each of the conditions of this EULA operates separately. If any court or competent authority decides that any of them are unlawful or unenforceable, the remaining conditions will remain in full force and effect.

K.5 Please note that this EULA, its subject matter and its formation, are governed by Belgian law.

You and we both agree that the courts of Ghent (Belgium) will have exclusive jurisdiction.

This agreement has been entered into on the date on which you click on the “Accept” button or tick to accept these terms.