



## **END USER LICENSE AGREEMENT**

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**THIS END USER LICENSE AGREEMENT (“EULA”) IS A LEGAL AGREEMENT BETWEEN YOU AND VITAL NEURO INC. (“WE,” “US,” OR “VITAL NEURO”) REGARDING YOUR USE OF THE VITAL NEURO APP AND RELATED DOCUMENTATION (THE “LICENSED APPLICATION”) AND RELATED ONLINE, MOBILE OR OTHER SERVICES PROVIDED BY VITAL NEURO FROM TIME TO TIME (“SERVICES”).**

**BY CLICKING THE "AGREE" BUTTON, OR DOWNLOADING OR INSTALLING THE LICENSED APPLICATION, OR USING THE LICENSED APPLICATION OR THE SERVICES, YOU (A) ACKNOWLEDGE THAT YOU HAVE READ AND UNDERSTAND THIS AGREEMENT; (B) REPRESENT THAT YOU ARE OF LEGAL AGE TO ENTER INTO A BINDING AGREEMENT (SUBJECT TO USE OF MINOR SET FORTH BELOW); AND (C) ACCEPT THIS EULA AND AGREE THAT YOU ARE LEGALLY BOUND BY ITS TERMS. IF YOU DO NOT AGREE TO THE TERMS OF THIS EULA, YOU ARE NOT ENTITLED TO USE THE LICENSED APPLICATION OR THE SERVICES AND MUST DE-INSTALL THE LICENSED APPLICATION FROM ALL OF YOUR DEVICES.**

**USE BY MINORS: IF YOU ARE BELOW THE AGE TO ENTER INTO A BINDING AGREEMENT BUT ARE AT LEAST 13 YEARS OLD (A “MINOR”), YOU REPRESENT AND AGREE THAT YOU ARE USING THE LICENSED APPLICATION AND/OR THE SERVICES WITH THE CONSENT OF YOUR PARENT OR LEGAL GUARDIAN AND THAT YOU HAVE RECEIVED YOUR PARENT’S OR LEGAL GUARDIAN’S PERMISSION TO USE THE LICENSED APPLICATION AND/OR THE SERVICES AND AGREE TO THE TERMS OF THIS EULA. IF YOU ARE A PARENT OR LEGAL GUARDIAN OF A MINOR, YOU HEREBY AGREE TO BIND THE MINOR TO THIS EULA AND TO FULLY INDEMNIFY AND HOLD HARMLESS VITAL NEURO IF THE MINOR BREACHES ANY OF THE TERMS OF THIS EULA. IF YOU ARE NOT AT LEAST 13 YEARS OLD, YOU MAY NOT USE THE LICENSED APPLICATION OR THE SERVICES AT ANY TIME OR IN ANY MANNER OR SUBMIT ANY INFORMATION TO THE VITAL NEURO OR THROUGH THE LICENSED APPLICATION OR THE SERVICES.**

**1. ACKNOWLEDGEMENT AND DISCLAIMER.** You acknowledge that your use of the Licensed Application and the Services are for informational purposes only. You further acknowledge that all content and media available or generated through the Licensed Application or the Services (“Content”) is (A) for informational purposes only, (B) not intended to be a substitute for professional medical advice, diagnosis or treatment, (C) should not be relied on as a substitute for professional medical advice, diagnosis or treatment, and (D) does not constitute medical information. You acknowledge that products or hardware supplied by or on behalf of Vital Neuro for use with the Licensed Application are not medical devices and, furthermore, are not intended to diagnose, treat, cure or prevent any disease or health condition. You acknowledge that Vital Neuro is not a licensed medical or healthcare provider and that Vital Neuro does not provide professional medical advice, diagnosis or treatment in any manner. Seek the guidance of your doctor or other qualified health professional with any questions you may have regarding your health or a medical condition. If you think you may have a medical emergency, call your doctor, go to the nearest hospital emergency department, or call the emergency services immediately. If you choose to rely on Content other than as permitted by this EULA, you do so solely at your own risk.

**2. SCOPE OF LICENSE.** Subject to the terms of this EULA, Vital Neuro hereby grants you a non-exclusive, non-assignable, non-transferable, limited license, without the right to sublicense, to install for use with a product or hardware supplied by or on behalf of Vital Neuro, in accordance with the terms of this EULA, the Licensed Application (the “License”). This License does not allow you to use the Licensed

Application on any device or other device that you do not own or control, and you may not distribute or make the Licensed Application available over a network where it could be used by multiple devices at the same time. This License does not grant any rights to obtaining future upgrades, updates, enhancements, or supplements of the Licensed Application. If upgrades, updates, enhancements, or supplements of the Licensed Application are obtained, however, the use of such upgrades or updates is governed by this EULA and any amendments to it unless other terms accompany the upgrades, updates or supplements in which case those terms apply. The Licensed Application is licensed, and not sold, to you under this EULA. You have no ownership rights in the Licensed Application or the Services. Vital Neuro retains all right, title, and interest in and to the Licensed Application (including any changes, modifications, or corrections thereto) and the Services.

**3. USER GENERATED CONTENT.** When you are using the Licensed Application or the Services, you may have the opportunity to post, stream, transmit or otherwise provide ideas, remarks, questions, data, or other content (collectively “User Generated Content”). You alone, not Vital Neuro, are responsible for all of your User Generated Content and you retain ownership to all User Generated Content. However, by submitting your User Generated Content to Vital Neuro, you hereby grant Vital Neuro a fully paid, royalty-free, perpetual, irrevocable, worldwide, royalty-free, non-exclusive and fully sublicensable right (and waive all moral rights) and license to use, license, distribute, reproduce, modify, adapt, publicly perform, publicly display, create derivative works of, derive revenue or other remuneration from, and communicate to the public, your User Generated Content (in whole or in part) and/or to incorporate it in other works in any form, media or technology now known or later developed, for the full term of any worldwide intellectual property right, including moral rights, that may exist in your User Generated Content. Vital Neuro is not responsible, and shall not be liable, for any other third party’s use of any User Generated Content. In the event that you receive User Generated Content in connection with your use of the Services, you represent, warrant and covenant that you shall only use such User Generated Content in accordance with these Terms and all Applicable Laws.

**4. RESTRICTIONS.** The Licensed Application and Services are protected by copyright law and international treaty provisions. You may not copy, modify, adapt, translate into any other language, distribute, or create derivative works based on the Licensed Application or the Services without the prior written consent of Vital Neuro. You may not assign this EULA or any of the rights or licenses granted under this EULA or rent, lease, or lend the Licensed Application or the Services to any person or entity. Any attempted sublicense, transfer, or assignment in violation of this EULA is void. You acknowledge that the Licensed Application and the Services may contain proprietary trade secrets of Vital Neuro. You agree that you will not, and will not allow any other person, to decompile, disassemble, reverse engineer, or attempt to reconstruct, identify, or discover any source code, underlying ideas, underlying user interface techniques, or algorithms of the Licensed Application or the Services by any means whatsoever, except to the extent the foregoing restriction is prohibited by applicable law. You agree not to remove, disturb, hide, or obscure any copyright or trademark notices embedded within the Licensed Application or the Services. You further agree not to tamper with, remove, or otherwise attempt to defeat any security system used by Vital Neuro in the Licensed Application or the Services to prevent the unauthorized copying of the Licensed Application or the Services. You agree not to provide Vital Neuro or upload any medical information or other personal health information to the Licensed Application or the Services or related products or hardware.

**5. CONSENT TO USE OF DATA.** You agree that Vital Neuro may collect and use technical data and related information, including but not limited to technical information about your device, system and application software, and peripherals, which is gathered periodically to facilitate the provision of Licensed Application updates, product support and other service to you (if any) related to the Licensed Application. Vital Neuro may use this information including, without limitation, to improve its products or to provide services or technologies to you. All information we collect through or in connection with the Licensed Application or the Services is subject to our [Privacy Policy](#). By downloading, installing, using and providing information to or through the Licensed Application or the Services, you consent to all actions taken by us with respect to your information in compliance with the Privacy Policy.

**6. UPDATES.** Vital Neuro may, but is not obligated, to provide upgrades, error corrections, updates, or other modifications to the Licensed Application (collectively “Updates”), including automatically installing Updates to the Licensed Application. You agree that Vital Neuro may modify the Licensed Application, even after it has been installed, with or without your knowledge. You consent to the automatic installation of the Updates and agree that you will only use the most recent, updated version of the Licensed Application provided to you by Vital Neuro.

**7. DISCLAIMER OF WARRANTIES.** YOU EXPRESSLY ACKNOWLEDGE AND AGREE THAT USE OF THE LICENSED APPLICATION AND THE SERVICES IS AT YOUR SOLE RISK AND THAT THE ENTIRE RISK AS TO SATISFACTORY QUALITY, PERFORMANCE, ACCURACY AND EFFORT IS WITH YOU. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE LICENSED APPLICATION AND ANY SERVICES ARE PROVIDED “AS IS” AND “AS AVAILABLE”, WITH ALL FAULTS AND WITHOUT WARRANTY OF ANY KIND, AND VITAL NEURO HEREBY DISCLAIMS ALL WARRANTIES AND CONDITIONS WITH RESPECT TO THE LICENSED APPLICATION AND ANY SERVICES, EITHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES AND/OR CONDITIONS OF MERCHANTABILITY, OF SATISFACTORY QUALITY, OF FITNESS FOR A PARTICULAR PURPOSE, OF ACCURACY, OF QUIET ENJOYMENT, AND NON-INFRINGEMENT OF THIRD PARTY RIGHTS. VITAL NEURO DOES NOT WARRANT AGAINST INTERFERENCE WITH YOUR ENJOYMENT OF THE LICENSED APPLICATION OR THE SERVICES, THAT THE FUNCTIONS CONTAINED IN OR SERVICES PERFORMED OR PROVIDED BY THE LICENSED APPLICATION WILL MEET YOUR REQUIREMENTS, THAT THE OPERATION OF THE LICENSED APPLICATION OR SERVICES WILL BE UNINTERRUPTED OR ERROR-FREE, OR THAT DEFECTS IN THE LICENSED APPLICATION OR SERVICES WILL BE CORRECTED. NO ORAL OR WRITTEN INFORMATION OR ADVICE GIVEN BY VITAL NEURO OR ITS AUTHORIZED REPRESENTATIVE SHALL CREATE A WARRANTY. SHOULD THE LICENSED APPLICATION OR SERVICES PROVE DEFECTIVE, YOU ASSUME THE ENTIRE COST OF ALL NECESSARY SERVICING, REPAIR OR CORRECTION. SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF IMPLIED WARRANTIES OR LIMITATIONS ON APPLICABLE STATUTORY RIGHTS OF A CONSUMER, SO THE ABOVE EXCLUSION AND LIMITATIONS MAY NOT APPLY TO YOU.

**8. FUNCTIONING.** You acknowledge that the Licensed Application, and your use of the Licensed Application and the Services, may be interrupted from time to time. You further acknowledge that the Licensed Application and/or the Services are not error free. Vital Neuro cannot accept any responsibility under this EULA for the functioning of your wireless device with respect to the Licensed Application. Vital Neuro will be entitled, on reasonable grounds, including the reasonable belief of fraud or illegal activity by any user in their use of the Licensed Application, to suspend access by you to the Licensed Application and/or the Services. You understand that Vital Neuro may be required by law enforcement agencies to disclose information regarding your use of the Licensed Application and/or the Services and that Vital Neuro will comply with such requests.

**9. LIMITATION OF LIABILITY.** TO THE EXTENT NOT PROHIBITED BY LAW, IN NO EVENT SHALL VITAL NEURO BE LIABLE FOR PERSONAL INJURY, OR ANY INCIDENTAL, SPECIAL, INDIRECT OR CONSEQUENTIAL DAMAGES WHATSOEVER, INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOSS OF PROFITS, LOSS OF DATA, BUSINESS INTERRUPTION OR ANY OTHER COMMERCIAL DAMAGES OR LOSSES, ARISING OUT OF OR RELATED TO YOUR USE OR INABILITY TO USE THE LICENSED APPLICATION, HOWEVER CAUSED, REGARDLESS OF THE THEORY OF LIABILITY (CONTRACT, TORT OR OTHERWISE) AND EVEN IF VITAL NEURO HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. SOME JURISDICTIONS DO NOT ALLOW THE LIMITATION OF LIABILITY FOR PERSONAL INJURY, OR OF INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THIS LIMITATION MAY NOT APPLY TO YOU. In no event shall Vital Neuro’ total liability to you for all damages exceed the amount of [INSERT AMOUNT]. The foregoing limitations will apply even if the above stated remedy fails of its essential purpose.

**10. INDEMNIFICATION.** You undertake to indemnify and hold Vital Neuro, its licensors, successors, and affiliates, and, collectively, their respective partners, directors, officers, employees or agents, or anyone else who has been involved in the creation, production or delivery of the Licensed Application (collectively

the “Indemnified Parties”) harmless from and against all damages, costs, claims and liabilities (including reasonable attorney’s fees) suffered or incurred by the Indemnified Parties as a consequence of any claims or proceedings made or brought against the Indemnified Parties by any person in connection with your use of the Licensed Application or the Services or a breach of this EULA.

**11. TERMINATION.** This EULA is effective until it is terminated. You may terminate this EULA at any time by discontinuing your use of the Licensed Application and/or the Services and destroying all copies of the Licensed Application and related documentation in your possession or under your control. Vital Neuro may immediately terminate this EULA if you violate any of its terms and conditions. Upon termination of this EULA, all license rights granted to you shall immediately terminate and all rights to use the terminated Licensed Application or Services shall cease. You must delete any Licensed Application and Services, if applicable, supplied and, if requested by Vital Neuro, certify to Vital Neuro that such deletion occurred.

**12. SURVIVAL.** Sections 1, 3, 5, 7, 9, 10, 13-19 of this EULA shall survive the termination of this EULA.

**13. CONTROLLING LAW AND VENUE.** This EULA will be governed by and construed in accordance with the laws of the State of [INSERT STATE], without regard to its conflict of law principles. This EULA shall not be governed by the United Nations Convention on Contracts for the International Sale of Goods, the application of which is expressly excluded. You agree to the jurisdiction of the state and federal courts located in or nearest to [INSERT CITY], regarding any disputes arising under this Agreement.

**14. SEVERABILITY.** If any provision or portion thereof of this EULA is found by a court of competent jurisdiction to be unenforceable, that provision or portion thereof shall be severed from this EULA, and the remainder of this EULA shall continue in full force and effect.

**15. COMPLETE AGREEMENT.** This EULA constitutes the entire agreement between the parties with respect to the use of the Licensed Application licensed hereunder and supersedes all prior or contemporaneous understandings between you and us regarding the subject matter hereof. No amendment to or modification of this EULA will be binding unless in writing and signed by Vital Neuro. Any translation of this EULA is done for local requirements and in the event of a dispute between the English and any non-English versions, the English version of this EULA shall govern.

**16. CHANGES.** Vital Neuro may can change, update, or add or remove provisions of this EULA, at any time by posting the updated EULA or, if you have registered for an account in connection with the Services, we may send an email to you at the email address on file for your account. By using the Licensed Application, Services or related products or hardware after Vital Neuro has updated this EULA, you agree to the updated EULA; if you do not agree with any of the updated terms contained in the EULA, you must stop using the Licensed Application, Services and related products and hardware.

**17. EXPORT COMPLIANCE.** You hereby represent and warrant that (i) you are not located in a country that is subject to a U.S. Government embargo, or that has been designated by the U.S. Government as a “terrorist supporting” country; and (ii) you are not listed on any U.S. Government list of prohibited or restricted parties.

**18. VITAL NEURO NAME AND ADDRESS.** Vital Neuro has a place of business at 263 West End Ave, Suite 1D, NY NY 10023. Any questions, complaints, or claims you may have with regard to the Licensed Application or the Services should be directed to: [support@vitalneuro.com](mailto:support@vitalneuro.com).

**19. APP MARKETPLACES.** The App shall be majority deployed via the Apple AppStore and Android Marketplace. Use of the App is subject to terms and conditions imposed by the host environment, Apple Inc., and/or Google LLC, respectively. You shall reasonably cooperate with Vital Neuro’ efforts to comply with such terms. This EULA is concluded between Vital Neuro and End User only, and not with Apple. As between Vital Neuro and Apple, Vital Neuro is solely responsible for the App and the content thereof. You and Vital Neuro acknowledge that Apple has no obligation whatsoever to furnish any maintenance and support services with regard to the App. Apple, and Apple’s subsidiaries, are third party beneficiaries of

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