

# ONE WISE TECH, LLC SAAS AGREEMENT

**WHEREAS**, Care Provider wishes to procure from One Wise and One Wise wishes to provide to Care Provider One Wise's Software in the form of Software as a Service ("SaaS");

**NOW, THEREFORE**, in consideration of the promises hereof, and the mutual obligations herein made and undertaken, the parties agree as follows.

## ARTICLE 1- DEFINITIONS

**1.1 "Agreement"** means this SaaS Agreement, Scheduled, Exhibits, and/or Appendices that may be added hereto.

**1.2 "Application"** means the mobile version of One Wise's Software accessible from Care Provider's tablet, smartphone, or any other platform that can access the Internet. This can include the web-based platform provided by One Wise through the Internet portal, as well as any downloadable application available now or in the future.

**1.3 "Authorized Users"** means the users authorized to use the Software and Application provided by One Wise.

**1.4 "Business Days"** means a day other than any Saturday or Sunday, or any Utah State or Federal holidays.

**1.5 "Documentation"** means all user manuals and other documentation supplied by One Wise to Care Provider whether provided in electronic form or otherwise, including training manuals, program listings, data models, flow charts, logic diagrams, functional specifications, instructions, etc.

**1.6 "Eligible Support Recipients"** means up to two individuals nominated by Care Provider to be eligible to receive technical assistance from One Wise.

**1.7 "Feedback"** means any comments and recommendations provided by Care Provider to One Wise regarding the functionality and performance of One Wise Software, Application, and/or Documentation, including, without limitation, identifying potential errors and improvements.

**1.8 "Live"** means the first day of Care Provider posting and/or processing data through One Wise Hosted Applications and/or Software.

**1.9 "Care Provider Desk Top Computers"** means the computers located at the Care Provider's site, which have the required Microsoft Windows Operating

System or Mac Operating System, which shall be used to operate One Wise's Application. For avoidance of doubt, Microsoft Windows Operating System or Mac Operating Systems for the Desk Top Computers are not being provided by One Wise.

**1.10 "Care Provider's Tablet or Smartphone"** means the tablets or phones owned by the Care Provider which run either Android or Mac IOS Operating Systems, which can run and operate the Application. For avoidance of doubt, Care Provider Tablets or Smartphones are not being provided by One Wise.

**1.11 "Software"** means the One Wise web-based software and online portal.

**1.12 "Software as a Service"** means the services provided by One Wise pursuant to this Agreement, including Care Provider's access to the Hosted Applications and licenses granted by One Wise.

## ARTICLE 2- ACCESS AND USE

**2.1 Care Provider's Rights.** One Wise grants to Care Provider, and Care Provider agrees to accept, a non-exclusive, non-perpetual, terminable, and non-transferable right, except as provided by 13.4, to access and use the Software, and/or Application, worldwide for Care Provider's internal use in accordance with the terms of this Agreement during the term of this Agreement.

**2.2 Effect of Termination of One Wise's Rights on Access.** Care Provider's rights of access to the Software and/or Application will terminate automatically upon expiration of, or termination of, this Agreement.

**a.** Upon termination of Care Provider's rights, Care Provider shall return any Documentation initially provided by One Wise to Care Provider that One Wise may reasonably request, such request of return of Documents to be done within a commercially reasonable amount of time.

**2.3 Limitation on Reverse Engineering, Decompilation, and Disassembly.** One Wise shall not reverse engineer, decompile, or disassemble the Software or Application, except and only to the extent that applicable law, notwithstanding this limitation, expressly permits it.

**2.4 Compliance with Applicable Laws.** Care Provider will ensure that their use of the Software and Application complies with all applicable laws, statutes, regulations, and/or rules.

**2.5 Retained Rights and Ownership in Care Provider's Data.** Care Provider retains all right, title and interest in and to the Care Provider's data, and One Wise acknowledges that it neither owns nor acquires any additional rights in and to the Care Provider not expressly granted by this Agreement. One Wise further acknowledges that Care Provider retains the right to use the Care Provider Data for any purpose in Care Provider's sole discretion.

**2.6 License to Use Care Provider Data.** Subject to the Article 2.5, Care Provider hereby grants to One Wise a non-exclusive, non-transferable right and license to use Care Provider data during the Term for the limited purpose of performing One Wise's obligations under this Agreement.

**2.7 Operational Support and Training.** One Wise shall exercise commercially reasonable efforts to provide Care Provider with technical assistance for the use of the Software and Application.

**2.8 Eligible Support Recipients.** One Wise shall have no obligation to provide technical assistance, operational support, or training to any entity or individual other than eligible support recipients and/or Care Provider.

**2.9 Means of Access to Technical Assistance.** Eligible Support Recipients shall be permitted to request technical assistance by either telephoning One Wise at such number as One Wise may specify for such purposes from time to time or by directing electronic mail requests therefore to One Wise at the electronic mail address as One Wise may specify for such purposes from time to time.

### ARTICLE 3- TERM AND TERMINATION

**3.1 Term.** This Agreement shall commence upon execution hereof shall continue for one (1) full year from the date upon which Care Provider begins using One Wise (the "Initial Term"). Care Provider shall not have the power to terminate the Agreement during the Initial Term.

**3.2 Renewal.** This Agreement shall automatically renew for successive renewal terms of twelve (12) months ("Renewal Term(s)") unless terminated as permitted in this Agreement.

**3.3 Termination after Initial Term.** Either party may terminate this Agreement at the expiration of the Initial Term by providing written notice to the other party not less than thirty (30) days prior to the end of the Initial Term, such termination to take effect at the expiration of the Initial Term.

**3.4 Termination during Renewal Term.** Either party may terminate this Agreement at the expiration of the then current Renewal Term by providing written notice to the other party of not less than sixty (60) days

prior to the end of the then current Renewal Term. For avoidance of doubt, termination shall be effective at the expiration of the then current Renewal Term.

**3.5 The Effect of Termination on Prepayments.** One Wise shall refund any pre-paid amount covering the time terminated by Care Provider on a pro-rata basis.

**3.6 Termination Due to Breach.** In addition to such other rights and remedies as may be available in law or in equity, should either party commit a material breach of its obligations hereunder, the other party may, at its option, terminate this Agreement with thirty (30) days written notice of desire to terminate, which notice shall identify and describe the basis for such termination. If, prior to expiration of such period, the breaching party cures such breach, termination shall not take place.

**3.7 Effect of Termination.** Upon any termination of this Agreement for any reason, Care Provider shall immediately:

a. Discontinue any and all use of Software and/or Application and return or purge any and all components thereof, including returning or destroying or causing to be destroyed, any and all copies of the Software, Application, Documentation, notes, and other materials,

b. Promptly pay to One Wise all amounts due and payable under this Agreement, including all expenses incurred by One Wise prior to the effective date of termination that have been committed or incurred in accordance with the terms of this Agreement.

**3.8 Survival.** The provisions of Articles 3.7, 3.8, 5, 8, 9, 10, and 13 will survive the termination of this Agreement.

**3.9 Suspension of Service.** If Care Provider fails to pay undisputed amounts in accordance with the terms and conditions hereof, One Wise shall have the right, in addition to any of its other rights or remedies, to suspend the license, and access, to the Software and Application without liability to Care Provider until such amounts are paid in full.

### ARTICLE 4- PAYMENT TERMS

**4.1 Payment.** Care Provider shall pay the total monthly amount owed for the month's use of the Software. The amount owed shall be calculated at the agreed price of \$1.00 per document sent one way through the Software during the specific calendar month.

**4.2 Payment Schedule.** One Wise shall provide an invoice at the beginning of each new month for the amount owed based on the Care Provider's previous month's usage of the Software. All undisputed sums due under this Agreement shall be paid by Care Provider (without any set off or deduction) within thirty (30) days from the date of Care Provider's receipt of invoice.

**4.3 Price Escalation.** The prices set forth in this Agreement shall be adjusted at the start of each Renewal Term to the list price in effect at the time of renewal; but in no event will the annual fee charged to Care Provider increase by more than seven percent (7%) over the cost of the then existing term.

**4.4 Late Fees.** Late payments that are not disputed in good faith bear interest at the rate of 2.5% per month (or the highest rate permitted by law, if less).

**4.5 Effect of Late Payment.** If Care Provider fails to pay any amounts invoiced by One Wise, other than amounts disputed in good faith, by the applicable payment due date, One Wise shall have the right, at its discretion, to suspend access to the Software and Application on notice to the Care Provider until such time that payment is received.

**4.6 Fees for Collections.** Care Provider shall pay reasonable expenses, outside that One Wise incurs in collecting late payments that are not disputed in good faith.

**4.7 Additional Costs due to Unauthorized Use.** If any fault or problem is found under investigation to be due to unauthorized use of the Software or Application, Care Provider shall pay One Wise all reasonable costs and expenses incurred by One Wise in consequence of such investigation, as well as any costs and expenses incurred to mitigate damages for the unauthorized use, all such expenses calculated on a time and materials basis at One Wise's then prevailing rates.

**4.8 Taxes.** Care Provider shall pay for all applicable taxes, duties, or levies assessed to Care Provider at the then prevailing rate. Any late payment charges arising out of Care Provider's late payment of taxes, duties, or levies shall be payable by the Care Provider.

**4.9 Disputed Fees.** In the event that Care Provider reasonably and in good faith disputes any invoice, Care Provider shall notify One Wise in writing within five (5) business days of the date of receipt of the applicable invoice.

**4.10 Notice.** Care Provider will not receive any advance notice of monthly payment owed, but a post-payment confirmation email may be sent at the request of the Care Provider.

## ARTICLE 5- PROPRIETARY RIGHTS

**5.1 Ownership of One Wise Documentation, Software and Data.** Care Provider acknowledges and agrees that this Agreement grants Care Provider no title or right of ownership in or to the Software or Application, or any component thereof, or to any associated materials including, but not limited to, any Documentation, or intellectual property. Care Provider shall not, at any time, take or cause any action, which

would be inconsistent with or tend to impair the rights of One Wise. Care Provider shall not acquire any title, copyright or other proprietary rights to or interest in, the Software, Application, or Documentation. One Wise acknowledges and agrees that this Agreement grants One Wise no title or right of ownership in, or to, Care Provider's data, documentation, or intellectual property.

**5.2 Exclusivity of Ownership.** All works of authorship produced by One Wise shall be the exclusive property of One Wise and One Wise shall retain sole ownership of any and all One Wise trademarks, including the goodwill pertaining thereto.

**5.3 Prohibition against Removal.** Care Provider shall not remove or alter any of One Wise proprietary or copyright notices, trademarks, or logos on any Documentation, Software, or Application, unless specifically approved by One Wise in writing.

**5.4 Feedback.** One Wise shall have the unrestricted right to use the Feedback provided by Care Provider to One Wise in connection with One Wise's SaaS Services, or this Agreement at its sole discretion, including to improve or enhance the One Wise Software, Application, and Documentation, and other One Wise products and, accordingly, One Wise shall have a non-exclusive, perpetual, irrevocable, royalty-free, worldwide right and license to use, reproduce, disclose, sublicense, distribute, modify, and otherwise exploit such Feedback without restriction.

**5.5 Use of Name.** Each party grants the other party the limited right to use its name and logo to identify it as a customer or service provider, as applicable, notwithstanding, neither Party shall make any use of the other Party's name without the other Party's written consent.

## ARTICLE 6- ONE WISE'S RESPONSIBILITIES

**6.1 Application and Software Accessibility.** One Wise will use commercially reasonable efforts to ensure the accessibility of the Application and Software to the Care Provider twenty-four hours a day, seven (7) days a week, except where scheduled maintenance is required.

**a.** Notwithstanding the foregoing, Care Provider understands, and acknowledges, that from time to time, the servers may be inaccessible or inoperable for various reasons, including, but not limited to, equipment malfunctions, upgrades or modifications, or other causes beyond the control of One Wise.

**b.** Care Provider further acknowledges and understands that a working Internet link is required for the Software and Application to run and operate. One Wise shall not be held liable for lack of accessibility related to Internet connectivity issues unrelated to the Application or Software.

**6.2 Notice of Scheduled Downtime.** One Wise shall use commercially reasonable efforts to provide at least seventy-two (72) hours' advanced notice to Care Provider for any scheduled downtime due to scheduled maintenance.

a. Such notice may be provided through email, or through internal messages or alerts within the Software or Application.

**6.3 No Obligation for Care Provider Data.** One Wise shall not have any obligation to back-up Care Provider data, nor will One Wise have any liability for any loss or corruption of Care Provider data, nor will One Wise have any obligation under this Agreement to retain any Care Provider data after the expiration or termination of the Agreement.

## ARTICLE 7- CARE PROVIDER'S RESPONSIBILITIES

**7.1 Use of the Software or Application.** Care Provider, and any other employees under Care Provider who by license may access the Software and Application, shall use the Software or Application as authorized, in accordance with One Wise's operating instructions, Documentation, and training and shall not use the Software or Application to:

a. Transmit material containing software viruses or other harmful or deleterious computer code, files, scripts, agents, or programs;

b. Interfere with or disrupt the integrity or performance of the Software or Application

c. Attempt to gain unauthorized access to One Wise computer systems or networks related to the Software or Application, or

d. Interfere with another's use and enjoyment of the Software or Application

**7.2 Care Provider Responsibility for Data and Security.** Care Provider shall have access to Care Provider's data and shall be responsible for all changes to and/or deletions of Care Provider Data and the security of all passwords and other access protocols required in order to access the Software or Application. Care Provider is encouraged to make its own back-ups of any Care Provider data and Care Provider shall have the sole responsibility for the accuracy, quality, integrity, legality, reliability, and appropriateness of all Care Provider Data.

**7.3 Alterations.** Care Provider shall not alter, adapt, or modify the Software or Application except where previously agreed in writing by One Wise.

**7.4 Cooperation.** Care Provider shall co-operate with One Wise employees and personal in the diagnosis, investigation, and correction of any fault in the Software or Application that may be discovered.

a. Care Provider shall also provide adequate access to Care Provider's computers and tablets if reasonably required to perform remedial maintenance service.

**7.5 Notification.** Care Provider shall properly provide Feedback and shall notify One Wise of any and all Software faults and/or failures via telephone or through the proper service email provided by One Wise upon request.

**7.6 Collection of Care Provider Data.** Care Provider shall be responsible for obtaining any and all consents necessary to allow for the collection of Care Provider Data under this Agreement and the processing of Care Provider Data by One Wise.

## ARTICLE 8- INDEMNIFICATION AND LIMITATION OF LIABILITY

**8.1 Reciprocal Indemnification by Parties.** Each party shall indemnify, hold harmless, and, unless otherwise directed by the other party, defend the other party and its affiliates, directors, officers, employees, and agents (collectively, the "Indemnified Party") from and against any and all third-party suits, actions, claims, and resulting liabilities, losses, damages, judgments, payments, penalties, fines, fees, costs, and expenses (including reasonable attorney fees) awarded to the third party (collectively, "Liabilities") arising from any third-party claim relating to or based on the gross negligence or intentional misconduct of the Indemnifying Party in connection with this Agreement, provided that the Indemnifying Party shall not be responsible for Liabilities resulting from the gross negligence or intentional misconduct of the Indemnified Party, and the Indemnified Party promptly notifies the Indemnifying Party in writing of the claim, cooperates with the Indemnifying Party, and allows the Indemnifying Party sole authority to control the defense and settlement of such claim.

**8.2 Indemnification against Care Provider Liability.** Care Provider agrees to indemnify and hold One Wise harmless from and against any and all loss, cost, expense, or liability (including reasonable attorney's fees) arising out of a claim by a third party against One Wise based upon Care Provider's use of the Software, except where issues of violations of intellectual property are concerned as outlined in Articles 10.3 and 10.4.

**8.3 Limitation of Liability.** Except for liability resulting from breach of Article 9 (Confidentiality) or obligations arising under this Article 8 relating to indemnification, and notwithstanding anything in this Agreement to the contrary, in no event shall One Wise be liable to Care Provider for consequential, special, indirect, incidental, or punitive damages or loss of profits or revenues arising out of the performance of this Agreement, and, as between the parties, neither party's

liability in connection with this agreement shall exceed the aggregate amount paid by Care Provider under this Agreement for the services giving rise to the liability.

## ARTICLE 9- CONFIDENTIALITY

**9.1 Confidentiality.** The Software, Application, and Documentation together with all other data and materials supplied by One Wise to Care Provider in machine-readable form or otherwise pursuant to this Agreement are the property and confidential and proprietary trade secrets of One Wise, and remain so even after delivery to the Care Provider.

**9.2 Confidential Information.** Each party agrees that during the performance of this Agreement it may receive information relating to the other party that is not generally known or that is of a proprietary nature (“Confidential Information”). Each party agrees not to use or disclose any Confidential Information except for the purpose of meeting its obligations under this Agreement, and will not use Confidential Information for any other purpose whatsoever.

a. Confidential Information shall not include any information that is:

1. generally known or available to the public;
2. already known at the time of receiving the Confidential Information through no wrongful act of the other party;
3. furnished by a third party with the right to do so;
4. independently developed.

**9.3 Forced Disclosure.** In the event that either party is required to disclose Confidential Information relating to the other party to a court or government agency, that party shall, prior to disclosure, and as soon as practicable, notify the other party and allow it an adequate opportunity to object to the disclosure order or take other action to preserve the confidentiality of the information.

**9.4 Acknowledgments.** Care Provider acknowledges that One Wise’s offering is unique and valuable and has been developed or otherwise acquired by One Wise at great expense, and that any unauthorized disclosure or use of Software, Application, or any component thereof, would cause One Wise irreparable injury and loss, for which damages would be an inadequate remedy.

**9.5 Liens, Claims, and Encumbrances.** Care Provider agrees to keep all property of One Wise, tangible and intangible, free and clear of all liens and encumbrances.

## ARTICLE 10- LIMITED WARRANTIES

**10.1 Authority.** Each party represents and warrants that they have the right, power, and authority to enter

into this Agreement and to perform its obligations hereunder.

**10.2 Representations of One Wise.** One Wise represents and warrants that it will provide access to the Software and Application and perform its other obligations under this Agreement in a professional and workmanlike manner substantially consistent with general industry standards.

**10.3 Violation of Intellectual Property.** To the knowledge of One Wise, the Software does not violate any applicable law, rule or regulation or any third party, including any patent, trademark, trade name, copyright, trade secret or other intellectual property right. One Wise shall defend Care Provider in connection with a claim that the use of the Software by Care Provider as permitted under this Agreement constitutes a patent or copyright infringement and shall indemnify and hold Care Provider harmless against any damages finally awarded (after all appeals and excluding any damages not attributable to One Wise) in connection with any such claim, but only to the extent that:

a. the action relates to a patent or copyright enforceable in the United States,

b. the action relates solely to the Software,

c. the Software has not been altered or modified by or on behalf of Care Provider,

d. the Software is not used in connection with any services, software or equipment not approved by One Wise.

**e. Further Limitation on Indemnification for Warranty.** Indemnification for violation of third-party intellectual property shall be given provided:

1. Care Provider give One Wise written notice within ten (10) days of notice of any such claim;

2. One Wise controls the defense of any action and has the right to settle; and

3. Care Provider fully cooperates with One Wise in the defense of such claim.

**10.4 Remedy of Violation of Intellectual Property.** In the event that Care Provider’s use of the Software is enjoined, One Wise shall, at its own expense, do one of the following, if it is commercially reasonable:

a. Procure for Care Provider the right to continue using the Software and Application;

b. Substitute suitable Software and/or Application; or

c. Modify the Software and/or Application so that it becomes non-infringing.

**d. Commercial Reasonableness.** If any of the foregoing options are not commercially practicable, One Wise may elect to provide a pro-rata refund to Care Provider of any pre-paid payments.

**10.5 No Warranty for Infringement of Third-party Intellectual Property Rights.** One Wise shall have no liability or obligation to defend or indemnify Care Provider with respect to any infringement of a third party intellectual property right, or claim thereof, based upon the combination, operation or use of any item of equipment or software supplied hereunder with equipment or software not supplied by One Wise, or in a manner for which Care Provider was not authorized, or for any claim based upon alteration or modification, without One Wise's written approval, of any Software or Application supplied pursuant to this Agreement.

**10.6 Disclaimer.** THE DOCUMENTATION AND ALL SERVICES PERFORMED BY ONE WISE ARE PROVIDED "AS IS" AND THE WARRANTIES MADE IN THIS AGREEMENT ARE THE ONLY WARRANTIES MADE BY ONE WISE WITH RESPECT TO PRODUCTS AND SERVICES PROVIDED HEREUNDER. CARE PROVIDER AGREES THAT THE EXPRESS OBLIGATIONS AND WARRANTIES MADE BY ONE WISE IN THIS AGREEMENT ARE IN LIEU OF AND, TO THE FULLEST EXTENT PERMITTED BY LAW, TO THE EXCLUSION OF ANY OTHER WARRANTY, CONDITION, TERM, UNDERTAKING OR REPRESENTATION OF ANY KIND, EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, RELATING TO ANYTHING SUPPLIED OR SERVICES PROVIDED UNDER OR IN CONNECTION WITH THIS AGREEMENT INCLUDING (WITHOUT LIMITATION) AS TO THE CONDITION, QUALITY, PERFORMANCE, MERCHANTABILITY OR FITNESS FOR THE PURPOSE. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, ONE WISE DOES NOT WARRANT THE FUNCTIONING OF ANYTHING SUPPLIED OR SERVICES PERFORMED HEREUNDER WITH SOFTWARE OR EQUIPMENT NOT SUPPLIED BY ONE WISE, OR THAT THE OPERATION OF ANYTHING SUPPLIED OR SERVICES PERFORMED HEREUNDER WILL BE UNINTERRUPTED OR ERROR FREE.

**10.7** CARE PROVIDER AGREES THAT IF CARE PROVIDER HAS RECEIVED ANY WARRANTIES WITH REGARD TO ANYTHING SUPPLIED OR SERVICES PERFORMED HEREUNDER, THEN THOSE WARRANTIES ARE PROVIDED SOLELY BY ONE WISE AND DO NOT ORIGINATE FROM, AND ARE NOT BINDING ON, ANY THIRD PARTIES, EXCEPT AS OTHERWISE SPECIFIED IN ANY END-USER LICENSE AGREEMENT PROVIDED BY A THIRD PARTY. FURTHERMORE, ANY SUPPORT TO BE PROVIDED PURSUANT TO THIS AGREEMENT SHALL BE PROVIDED EXCLUSIVELY BY ONE

WISE, UNLESS OTHERWISE SPECIFICALLY AGREED TO BY ONE WISE IN WRITING.

**10.8 Representation and Warranty on Care Provider Data.** Care Provider hereby represents and warrants that the collection and transmission of the Care Provider data to One Wise as contemplated by this Agreement, as well as the processing of such Care Provider data in conformance with the terms of this Agreement, complies in all respects with all applicable laws, rules, and regulations, that apply to the Care Provider and Care Provider's employees.

## ARTICLE 11- CONNECTIVITY

**11.1 Access to Internet Required for Use.** Care Provider acknowledges that access to, and connection with, the Internet is required to make use of the Application and Software, including the downloading of documents to sign, and the uploading of signed documents. To ensure access and successful use of the Software and Application, Care Provider shall provide for Internet connectivity in his or her home or office.

**11.2 Internet Delays.** As One Wise's services may be subject to limitations, delays, and other problems inherent in the use of the Internet and electronic communications, One Wise is not responsible for any delays, delivery failures, or other damage resulting from such problems.

## ARTICLE 12- NOTICE

**12.1 Method of Notice.** Any notice, request or other communication to be given under this Agreement may be delivered or sent by certified mail, registered mail or courier, or by e-mail or facsimile transmission to the other party to be delivered at its address appearing in this Agreement (or in the event that another address is notified in writing to the other party in accordance with this Article, then to that other address).

**12.2 Delivery.** Any notice or document shall be deemed to be delivered upon:

- a. Delivery personally, at the time of delivery; or
- b. Mailing, by certified or registered mail, at 10:00 a.m. on the second business day after it was mailed; or
- c. Sending by email or facsimile transmission, on the Business Day when dispatched.

## ARTICLE 13- GENERAL PROVISIONS

**13.1 Non-Competition.** Notwithstanding anything in this Agreement to the contrary, in no event shall One Wise be restricted from providing services that are competitive with, or similar to, the services contemplated under this Agreement, for any third party; and for the avoidance of doubt, One Wise shall be free to use the general knowledge, skills, and experience of its personnel, and any ideas, concepts, know-how, and techniques and other intellectual property rights that are

acquired or used pursuant to this Agreement; in each case provided that One Wise does not use any Confidential Information of the Care Provider in breach of the terms of this Agreement.

**13.2 Complete Agreement.** This Agreement constitutes the complete and exclusive statement of this agreement between the parties hereto and supersedes any and all prior express implied agreements or understandings between the parties hereto concerning the subject matter hereof. No amendment, waiver, or other alterations of this Agreement may be made except by mutual agreement in writing signed by both parties.

**13.3 Waiver.** No waiver of any breach of any provision of this Agreement shall constitute a waiver of any prior, concurrent or subsequent breach of the same or any other provision hereof, and no waiver shall be effective unless made in writing and signed by an authorized representative of the waiving party.

**13.4 Assignment.** Neither Party may assign or otherwise transfer this Agreement or any of its rights and obligations hereunder without the prior written consent of the other party; provided, however, that either party may assign or otherwise transfer this Agreement, upon notice to the other party but without the other party's consent to an affiliate, or to an entity that purchases all or substantially all of such party's business or assets to which this Agreement relates; further provided that the assignee or transferee is capable of fulfilling the obligations of the assigning or transferring party under this Agreement.

a. Any purported assignment or transfer in contravention of this section shall be considered null and void.

**13.5 Force Majeure.** Except with respect to Care Provider's payment obligations and each Party's Obligations under Article 9 (Confidentiality), neither Party shall be liable for failure to perform obligations under this Agreement if the failure results from an act of God, the act of a national, federal, state or local government authority which would make the continued service provided by One Wise either illegal, or financially impractical, fire, explosion, accident industrial dispute, or any other catastrophic or other similar event beyond such Party's reasonable control.

a. If One Wise is affected by an event of Force Majeure, upon giving prompt notice to Care Provider, One Wise shall be excused from performance hereunder to the extent of the prevention, restriction, or interference resulting from such Force Majeure.

**13.6 Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Utah, County of Davis. Exclusive jurisdiction for any action arising out of or in conjunction with this Agreement shall be in the courts of the State of Utah, County of Davis.

**13.7 Contractor Relationship.** One Wise, including its employees and agents, shall perform the services under this Agreement as independent contractors. Nothing in this Agreement is intended or shall be construed to create a partnership, joint venture, or employer-employee relationship between Care Provider and One Wise, its employees and/or agents.

**13.8 Subcontractor.** One Wise may perform all or any part of the services using one or more consultants or subcontractors, provided that One Wise shall remain responsible for the performance of the services in accordance with the terms of this Agreement.

**13.9 Injunctive Relief.** If either Party seeks injunctive relief for breach of Article 5 (Proprietary Rights) or Article 9 (Confidentiality), such party may seek temporary and/or permanent injunctive relief without the necessity of proving actual damages or posting bail.

**13.10 Conflict Resolution.** Except where injunctive relief is sought for breach of Article 5 (Proprietary Rights) or Article 9 (Confidentiality) or in order to comply with deadlines under applicable law, neither party shall commence a legal action or proceedings with respect to any dispute, controversy, or claim arising out of or relating to this Agreement unless and until, after applicable notice and opportunity to cure, senior executives for both parties have met and discussed the matter in order to consider informal and amicable means of resolutions and either such meeting failed to occur within fifteen (15) business days after receipt of written request therefor or the meeting did not produce a mutually satisfactory resolution of the matter.

**13.11 Headings.** The various headings in this Agreement are inserted for convenience only, and shall not affect the meaning of this Agreement or any paragraph or provision hereof.

**13.12 Severability.** If any provision or provisions of this Agreement shall be held to be invalid, illegal, or unenforceable, the validity, legality, and enforceability of the remaining provisions shall not be affected thereby and the parties shall negotiate replacement provisions for those provisions which are held invalid, illegal, or unenforceable which as closely as possible express the intent of those provisions.

**13.13 Survival.** Any rights and obligations which by their nature extend beyond the terms of this Agreement (whether the Agreement is terminated after the Initial Term or any Renewal Term) shall survive and continue after any expiration or termination and shall bind the parties and their legal representatives, successors, heirs, and assigns, where assignment is expressly permitted.

**13.14 Waiver.** No term or provision of this Agreement shall be deemed waived and no breach excused unless such waiver or consent is in writing and

signed by the party that has given such waiver or excused such breach.

**13.15 Pronouns.** All pronouns used in this Agreement shall be deemed to refer to the masculine, feminine, or neuter, singular or plural, as the identity of the person or persons may require.

**13.16 Interpretation.** The Parties agree that this Agreement shall be fairly interpreted in accordance with its terms without any strict construction in favor of, or against, either party. Any ambiguities shall not be interpreted against the drafting party.