

## **simPODD 3.6 Licence Agreement**

simPODD

### Terms of Use

This TERMS OF USE ("Agreement") is a legal agreement between you (either an individual or an entity you represent or work for) and AssistiveWare BV, located at Laurierstraat 193 - 1016PL Amsterdam - the Netherlands. ("AssistiveWare"), collectively called parties ("Parties"), concerning your access to and use of the simPODD application ("Licensed Application") as well as any other media form, media channel, website or mobile application related, linked, or otherwise connected thereto (collectively, "Material"). You agree that by using the Licensed Application, you have read, understood, and agree to be bound by this Agreement.

IF YOU DO NOT AGREE WITH ALL OF THESE TERMS AND CONDITIONS, THEN YOU ARE EXPRESSLY PROHIBITED FROM USING THE LICENSED APPLICATION AND YOU MUST DISCONTINUE USE IMMEDIATELY.

#### 1. Acknowledgement

Parties acknowledge that this EULA is concluded between Parties, and not with Apple, and that AssistiveWare, not Apple, is solely responsible for the Licensed Application and the content thereof.

The EULA may not provide for usage rules for Licensed Applications that are in conflict with, the App Store Terms of Service as of the Effective Date (which You acknowledge You have had the opportunity to review).

#### 2. Scope of License

The license granted to the End-User for the Licensed Application is a non-transferable license to use the Licensed Application on any Apple-branded Products that the End-User owns or controls and as permitted by the Usage Rules set forth in the App Store Terms of Service, except that such Licensed Application may be accessed and used by other accounts associated with the purchaser via Family Sharing or volume purchasing.

#### 3. Intellectual Property

Unless otherwise indicated, Licensed Application and Material, is AssistiveWare proprietary property and property and all source code, databases, functionality, software, website designs, audio, video, text, photographs, and graphics on the Site (collectively, the "Content") and the trademarks, service marks, and logos contained therein (the "Marks") are owned or controlled by us or licensed to us, and are protected by copyright and

trademark laws and various other intellectual property rights and unfair competition laws of the United States, foreign jurisdictions, and international conventions.

The PODD digital page sets and the PODD print books (“Vocabularies”) are intellectual property of Gayle Porter.

The Content, the Marks and the Vocabularies are provided “AS IS” for your information and personal use only.

Parties acknowledge that, in the event of any third party claim that the Licensed Application or the End-User’s possession and use of that Licensed Application infringes that third party’s intellectual property rights, AssistiveWare, not Apple, will be solely responsible for the investigation, defence, settlement and discharge of any such intellectual property infringement claim.

#### 4. Acceptable Use

This Agreement grants you the use of Licensed Application and Material for personal purposes, and for personal use of any user (such as child, client or student) under your direct guidance or supervision.

#### 5. Restrictions

You may not distribute, make available, assign or convey parts of Material, such as, but not limited to, the PODD Books, without prior written permission from AssistiveWare. You may not sell, lease, or license the PODD Books or any other part of Material, neither digitally nor in print.

You may not distribute, lease, sell, make available, assign, license or convey any derivative work (such as, but not limited to, alteration, translation, reduction, expansion or inclusion) based on the PODD Books or any other part of Material.

You may not use images from the Material in printed or electronic publications or displays, other than as expressly permitted by this Agreement, without the prior written approval from AssistiveWare.

AssistiveWare reserves the right to change, modify, add, or remove portions of the Material anytime, with or without notice.

No ownership or copyright in any Material shall pass to you by the issuance or acceptance of this Agreement. The Material is protected by laws of the United States and other jurisdictions, international conventions, and all other relevant intellectual property and proprietary rights, and applicable laws, including without limitation, applicable copyright, trade dress, patent, and/or trademark laws. All Material, including intellectual property

rights therein and thereto, are the property of AssistiveWare or its subsidiaries or affiliated companies and/or third-party licensors. Copying, redistribution, use or publication by the user is strictly prohibited except as expressly allowed by other sections of this Agreement.

AssistiveWare reserves all rights not expressly granted in this Agreement.

## 6. Maintenance and Support

AssistiveWare is solely responsible for providing any maintenance and support services with respect to the Licensed Application, as specified in the EULA, or as required under applicable law. Parties acknowledge that Apple has no obligation whatsoever to furnish any maintenance and support services with respect to the Licensed Application.

## 7. Warranty

AssistiveWare is solely responsible for any product warranties, whether express or implied by law, to the extent not effectively disclaimed. In the event of any failure of the Licensed Application to conform to any applicable warranty, the End-User may notify Apple, and Apple will refund the purchase price for the Licensed Application to that End-User.

To the maximum extent permitted by applicable law, Apple will have no other warranty obligation whatsoever with respect to the Licensed Application. Any claims, losses, liabilities, damages, costs or expenses attributable to any failure to conform to any warranty will be AssistiveWare's sole responsibility.

## 8. Other terms

(i) Parties acknowledge that AssistiveWare, not Apple, is responsible for addressing any claims of the End-User or any third party relating to the Licensed Application or the end-user's possession and/or use of that Licensed Application, including, but not limited to: (i) product liability claims; (ii) any claim that the Licensed Application fails to conform to any applicable legal or regulatory requirement; and (iii) claims arising under consumer protection, privacy, or similar legislation, including in connection with Your Licensed Application's use of the HealthKit and HomeKit frameworks.

(ii) The End-User represents and warrants that (i) he/she is 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) he/she is not listed on any U.S. Government list of prohibited or restricted parties.

(iii) End-User must comply with applicable third party terms of agreement when using Licensed Application.

(iv) Parties acknowledge and agree that Apple, and Apple's subsidiaries, are third party beneficiaries of the EULA, and that, upon the End-User's acceptance of the terms and conditions of the EULA, Apple will have the right (and will be deemed to have accepted the right) to enforce the EULA against the End-User as a third party beneficiary thereof.

(v) This Agreement is worldwide, non-exclusive, non-transferable and non-licensable. Unauthorized use of the Material will result in immediate termination of this license.

(vi) AssistiveWare may, at its sole discretion, make changes to this Agreement. The Agreement will be identified by its publication date and will be effective immediately upon being published. Your use of the Material after changes to the Agreement become effective constitutes your acceptance of such changes.

## 9. Breaches of the Agreement

If you breach the terms in this Agreement in any way, AssistiveWare may take such action as AssistiveWare deems appropriate to deal with the breach, including suspending your access to the Material, prohibiting you from accessing the Material, blocking computers using your IP address from accessing the Material, contacting your internet service provider to request that they block your access to the Material and/or bringing court proceedings against you.

## 10. Severability

If any terms of this Agreement are found to be unenforceable or invalid under any applicable law, such unenforceability or invalidity shall not render this Agreement unenforceable or invalid as a whole, and any such terms shall be deleted without affecting the remaining terms herein.

## 11. Developer Name and Address

End-User should address questions, complaints or claims with respect to the Licensed Application at:

AssistiveWare BV

Laurierstraat 193

1016PL Amsterdam

The Netherlands

legal@assistiveware.com

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