

# Developer Account License Agreement

Darena Solutions LLC dba Darena Health ("Darena") owns and operates the Darena Health Site (defined below) and other sites on the subdomain Site and APIs (defined below). All references to "we," "us," and "our" shall be construed to mean Darena.

## Developer Account

You are creating a Developer Account with Darena Health. This Agreement provides the terms and conditions ("Terms") that govern your license defined in Section 3 below (**Developer Account License**) under your Developer Account to access and use our APIs (defined below) for purposes of creating Apps (defined below) for use by your End-Users (defined below) and collectively referred to as the "Service". Your Developer Account License is without charge; no payment is required, provided you do not exceed the parameters for a Developer Account as per the applicable Pricing Schedule available on the Darena Health Site.

## Upgrade to a Workspace Subscription License

You may upgrade your Developer Account License to a Workspace Subscription License through a separate Workspace Subscription License Agreement. The Workspace Subscription License Agreement will incorporate the terms of this Developer Agreement and will include additional terms governing the Workspace Subscription, including the payment of Subscription Fees as set out in the applicable Pricing Schedule.

BY ACCESSING OR USING THE SERVICE, OR BY CLICKING A BUTTON OR CHECKING A BOX MARKED "I ACCEPT", "I AGREE", OR SIMILAR MARKING, YOU SIGNIFY THAT YOU HAVE READ, UNDERSTOOD, AND AGREE TO BE BOUND BY THESE TERMS REGARDING YOUR ACCESS AND USE OF THE SERVICE. IF YOU ARE ENTERING INTO THIS AGREEMENT ON BEHALF OF A COMPANY OR OTHER LEGAL ENTITY, YOUR ACCEPTANCE REPRESENTS THAT YOU HAVE THE AUTHORITY TO BIND SUCH ENTITY TO THESE TERMS, IN WHICH CASE "YOU" OR "YOUR" WILL REFER TO YOUR ENTITY. IF YOU DO NOT AGREE WITH THESE TERMS, OR IF YOU DO NOT HAVE THE AUTHORITY TO BIND YOUR ENTITY, THEN DARENA IS UNWILLING TO ALLOW YOU TO OPEN AN ACCOUNT AND USE THE SERVICE, WHEREUPON YOU SHOULD DISCONTINUE THE REGISTRATION PROCESS.

PLEASE READ THESE TERMS CAREFULLY TO ENSURE THAT YOU UNDERSTAND EACH PROVISION. THESE TERMS PROVIDE RIGHTS FOR US TO DELETE DATA IN SECTION 10. THESE TERMS ALSO CONTAIN A MANDATORY INDIVIDUAL ARBITRATION IN SECTION 14.3 AND A CLASS ACTION/JURY TRIAL WAIVER PROVISION IN SECTION 14.4 THAT REQUIRES THE USE OF ARBITRATION ON AN INDIVIDUAL BASIS TO RESOLVE DISPUTES, RATHER THAN JURY TRIALS OR CLASS ACTIONS.

## 1. Definitions

- 1.1. **"Darena Health Site"** means our web platform located at <http://www.darena.health> or subdomains or any other URLs as provided by Darena for use in accessing the Service.
- 1.2. **"Developer Account"** means your user account for your exercise of the license rights granted in Section 3 below (Developer Account License).
- 1.3. **"APIs"** means Darena's Darena Health Application Program Interface that permits access to Patient Data through a Workspace provided by us, including any additional APIs provided by us. APIs include current, future, and updates to APIs. This includes Darena Health FHIR API, an HTI-1 ONC Certified Module as described on <https://darena.health/onc-hti1-certified>
- 1.4. **"App"** means your software applications developed by you for use by your End-Users (defined below) to enable their access and use of our Service. Every App will be issued an "App ID" (also referred to as the "Client ID").
- 1.5. **"Workspace"** means a discrete instance of our APIs to be used through Apps.
  - 1.5.1. A **"Shared"** Workspace means a Workspace where there is a logical separation between Workspace data. A Shared Workspace performance may be impacted by other users' usage.
  - 1.5.2. A **"Dedicated"** Workspace means a Workspace where there is a separate physical database for the Workspace.
- 1.6. **"Individual End-User"** means an individual person intended to use your App(s).
- 1.7. **"Entity End-User"** means an organization or entity intended to use your App(s) for their personnel.

- 1.8. **“End-Users”** means both Individual End-Users and Entity End-Users.
- 1.9. **“Patient Data”** means patient healthcare information, including Protected Health Information and Electronic Health Information (both referred to herein as “PHI”).
- 1.10. **“PHI”** means Protected Health Information as defined under the Health Insurance Portability and Accountability Act (“HIPAA”) Privacy Rule.
- 1.11. **“Third-Party Content”** means text, images, videos, audio, and software that may reside in our APIs.
- 1.12. **“Applicable Law”** means any federal or state law (statutory, common, or otherwise), constitution, treaty, convention, ordinance, code, rule, regulation, order, injunction, judgment, decree, ruling or other similar requirement enacted, adopted, promulgated or applied by a governmental authority that is binding upon or applicable to a party hereto, as amended unless expressly specified otherwise, including without limitation the regulations promulgated by (i) Health Insurance Portability and Accountability Act and (ii) the Office of the National Coordinator for Health Information Technology under the authority of the 21<sup>st</sup> Century Cures Act (42 U.S.C. § 300jj-52).
- 1.13. **“Credentials”** means information such as passwords, keys, and related protocols that we may provide to identify you as a licensee for use of our Service.
- 1.14. **“Branding Features”** means the trade names, trademarks, service marks, logos, domain names, and other distinctive brand features of each party.
- 1.15. **“Workspace Subscription License”** means a separate license agreement that, when executed, grants you the right to create, manage, and, where applicable, resell a Workspace for use by End-Users. The Workspace Subscription License is governed by a separate Workspace Subscription Agreement, which incorporates the terms of this Developer Account License Agreement and includes additional terms related to the handling of real Patient Data, payment of Subscription Fees, and the management of Workspaces.

## 2. Your Account Credentials

We reserve the right to require you to provide certain Credentials as a prerequisite to open an account and access the Service.

## 3. Developer Account License

3.1. Subject to these Terms, we hereby grant you a non-exclusive, limited, non-transferable, and revocable right and license to access and use your Developer Account with our Service and Workspaces created by you, only for purposes of developing and testing your Apps. You may also access and use our Service for distributing your Apps for use by your End-Users.

3.1.1. For purposes of clarification, you may create Workspaces exclusively for development and testing purposes with your Apps only. These Workspaces are not authorized to process, store, or transmit actual Patient Data. You are allowed to offer and sell your Apps to the End-Users of Workspaces covered under a separate Workspace Subscription License agreement.

3.1.2. You may exercise these rights without charge; no payment is required provided you do not exceed the parameters of the Developer Account License per the applicable Pricing Schedule.

3.2. All rights that are not expressly granted by these Terms are hereby expressly reserved by Darena.

3.3. As a condition for your entering into this Agreement and to exercise the rights granted to you herein, you agree that we are authorized to require any of your End-Users seeking integration for your Apps with our Service to agree to our separate access and use terms for our Service.

## 4. Your Use of the Service

4.1. Regarding your use of the Service, you acknowledge and agree:

4.1.1. That you will be solely responsible for your End-Users' use of the APIs.

4.1.2. That to the extent that any open-source software license (which will be identified on the Site) for any open-source software that we may use in the APIs supersedes these Terms, you shall comply with all the license terms for such open-source license(s).

- 4.1.3. That we have the unqualified right to develop software, products, or services that may compete with your Apps or any other products or services.
- 4.1.4. That we may use any feedback or suggestions you may make without any obligation to you.
- 4.1.5. That we may implement data throttling to prevent API overload, maintain service quality, and prevent abuse without prior notice.
- 4.1.6. That if we assign Credentials to you (e.g., developer IDs, keys, passwords), you agree to incorporate them into applicable Apps as we may require.
- 4.1.7. That you will not misrepresent your identity and/or your App's identity when accessing and using the Service.
- 4.2. Regarding your use of the Developer Account, you agree (i) that you will create and use Workspaces only for testing fictitious test data, not actual Patient Data, and (ii) that you will be solely responsible for complying with Applicable Law.
- 4.3. You may develop and distribute Apps to End-Users that have a Workspace Subscription License.

## 5. Your Apps

- 5.1. We do not claim any ownership rights in your Apps or to any content you may provide.
- 5.2. Except for Patient Data that you may access in our Production Environment, you do not acquire ownership of any part of our Service, our APIs, or Third-Party Content that is accessed through the APIs.
- 5.3. Regarding your Apps, you agree:
  - 5.3.1. That you will not use your Apps to defame, abuse, harass, stalk, or threaten others.
  - 5.3.2. That we may monitor your access and use of the Service and your End-User's access and use of the APIs for purposes of - verifying compliance with Applicable Law, collecting feedback, improving the APIs, and assessing the quality of the Service.
  - 5.3.3. That you will protect your End-User's data, including Patient Data, from unauthorized access or use and otherwise as required by Applicable Law (i) in the course of the design and development of your Apps, and (ii) in the course of your End-User's access and use of your Apps.

- 5.3.4. Regarding End-User data that you access or receive through the Service, as between you and the End-User, you shall be solely responsible for any and all errors, interruption of use, inaccuracy, and corruption of such data.
  - 5.3.5. That you will be solely responsible for providing all technical support for your End-Users and their use of your Apps.
- 5.4. Each Workspace shall possess its unique Uniform Resource Locator ("URL") for accessing its respective instances of the APIs. The Workspace enables you to utilize the functionalities of the APIs independently and separately from other developers. A Workspace includes, without limitation, the APIs, data storage, computational resources, and any associated software components provided by APIs that facilitate the functionality and purpose of the APIs.
- 5.5. We provide Level 1 support for no additional charge, commensurate with the subscription level as indicated on the pricing schedule available on the Darena Health Site consisting of (i) access to our support portal that provides a knowledge base and in-app self-service, (ii) the option to submit help tickets for email support, and (iii) an open discussion forum.
- 5.6. We will provide Level 2 support consisting of consultation with our support team for an additional charge under a separate Level 2 support agreement.

## 6. Your Representations and Warranties

- 6.1. You hereby represent and warrant:
  - 6.1.1. That you are authorized to access Patient Data that you may request through the Service, including authorization, in accordance with Applicable Law.
  - 6.1.2. That your access and use of the Service will be in accordance with Applicable Law.
  - 6.1.3. That your use of the Service will be only for purposes specifically described herein.
  - 6.1.4. That your use of the Service will not introduce or permit the introduction of any virus, worm, Trojan Horse, or other software, software routine, or mechanism to permit any unauthorized access into, to disable, to erase in whole or in part or to otherwise adversely affect the Service.

- 6.2. You hereby acknowledge that any violation of the foregoing representations and warranties is subject to indemnification under Section 12 hereof.

## 7. Darena Confidential Information

- 7.1. The Services, including the design and coding of our APIs, Developer Credentials, our software that enables the Services, and the communications and material we provide to you that are either marked as “confidential” or that would normally be reasonably considered confidential, incorporate our proprietary confidential information and trade secrets (“Darena Confidential Information”). Darena Confidential Information does not include information that: (i) is in your possession or control at the time of its disclosure hereunder; (ii) is, or becomes publicly known, through no act of yours; (iii) is received by you from a third-party free to disclose it without obligation to us; or (iv) is independently developed by you without reference to Confidential Information.
- 7.2. You may use Darena Confidential Information only as specifically authorized herein. You agree to protect such Darena Confidential Information from disclosure to others, using the same degree of care used to protect its own proprietary information of like importance, but in any case, using no less than a reasonable degree of care. You may disclose Darena Confidential Information received hereunder only specifically authorized herein and otherwise only to your employees who have a need to know for purposes of exercising your rights and obligations hereunder, and who are bound by signed, written agreements sufficient to enable you to enforce all the provisions of this Agreement regarding Darena Confidential Information.

## 8. API Content

- 8.1. Data transmitted through our API or stored in Workspace may contain third-party content consisting of text, images, videos, audio, and software. We do not control the creation of this content, and we cannot guarantee that it does not violate the copyrights or other intellectual property rights of others.
- 8.2. If you believe that any such third-party content violates the rights of others, you agree to report it to us without delay at [legal@darenasolutions.com](mailto:legal@darenasolutions.com).

## 9. Branding Features

- 9.1. These terms do not grant either party rights to the other party's Branding features.
- 9.2. You agree to display any attributions to us as may be reasonably requested by us from time to time.
- 9.3. You agree to not make any statement regarding the Service that suggests partnership with, sponsorship by, or endorsement by us without our prior written approval.

## 10. Cancellation and Termination; Data Deletion

- 10.1. You may cancel your license for using the Service at any time by providing us with at least forty-five (45) days prior written notice to us in accordance with Section 15.5 below.
- 10.2. We reserve the right to terminate your right to access and use the Service at any time for any reason or no reason as follows: (i) for Developer Account License by at least thirty (30) days prior written notice, and (ii) for Workspace Subscription License, including access and use of the APIs, by at least one hundred eighty (180) days prior written notice.
- 10.3. Cancellation or termination shall be effective at the end of your then-current Subscription Period. There shall be no reimbursement for any prepaid fees.
- 10.4. Beginning with the effective date of cancellation or termination, you shall have ten (10) days to copy your data for safekeeping, after which all of your data will be permanently deleted without any further notice.
- 10.5. Upon the effective date of cancellation or termination, you agree to immediately stop using the Service, except for your right to copy your data for safekeeping under Section 10.4 above.
- 10.6. Upon the effective date of cancellation or termination, those terms that by their nature are reasonably intended to continue indefinitely, will survive, including without limitation: Sections 4 (Your Use of the Service), 5 (Your Apps), 6 (Your Representations and Warranties, 7 (Darena Confidential Information), 9 (Branding Features), 10 (Cancellation and Termination; Data Deletion), 11 (Your Indemnity), 12 (No



Warranties), 13 (Limitation of Liability), 14 (Governing Law, Arbitration, and Class Action/Jury Trial Waiver), and 15 (General).

## 11. Your Indemnity

You agree to defend, indemnify and hold harmless Darena and its subsidiaries, agents, licensors, managers, and other affiliated companies, and their employees, contractors, agents, officers and directors, from and against any and all claims, damages, obligations, losses, liabilities, costs or debt, and expenses (including but not limited to attorney's fees) arising from: (i) your use of and access to the Service, including any data or content transmitted or received by you; (ii) your violation of any term of these Terms, including without limitation your breach of any of the representations and warranties provided herein, specifically [Section 6](#); (iii) your violation of any third-party right, including without limitation any right of privacy or intellectual property rights; (iv) your violation of any Applicable Law; (v) any content that is submitted via your account including without limitation misleading, false, or inaccurate information; (vi) your willful misconduct; or (vii) any other party's access and use of the Service with your unique username, password or other appropriate security code.

## 12. No Warranties

12.1. THE SERVICE IS PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS. USE OF THE SERVICE IS AT YOUR OWN RISK. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE SERVICE IS PROVIDED WITHOUT WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT. NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED BY YOU FROM DARENA OR THROUGH THE SERVICE WILL CREATE ANY WARRANTY NOT EXPRESSLY STATED HEREIN. WITHOUT LIMITING THE FOREGOING, DARENA, ITS SUBSIDIARIES, ITS AFFILIATES, AND ITS LICENSORS DO NOT WARRANT THAT THE CONTENT IS ACCURATE, RELIABLE OR CORRECT; THAT THE SERVICE WILL MEET YOUR REQUIREMENTS; THAT THE SERVICE WILL BE AVAILABLE AT ANY PARTICULAR TIME OR LOCATION, UNINTERRUPTED OR SECURE; THAT ANY DEFECTS OR ERRORS WILL BE CORRECTED; OR THAT THE SERVICE IS FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS. ANY CONTENT DOWNLOADED OR OTHERWISE OBTAINED THROUGH THE USE OF THE SERVICE IS DOWNLOADED AT YOUR OWN RISK AND YOU WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO YOUR COMPUTER SYSTEM OR MOBILE DEVICE OR LOSS OF DATA THAT RESULTS FROM SUCH DOWNLOAD OR YOUR USE OF THE SERVICE.

- 12.2. DARENA DOES NOT WARRANT, ENDORSE, GUARANTEE, OR ASSUME RESPONSIBILITY FOR ANY PRODUCT OR SERVICE ADVERTISED OR OFFERED BY US OR ANY THIRD PARTY THROUGH THE SERVICE OR ANY HYPERLINKED WEBSITE OR SERVICE, AND DARENA WILL NOT BE A PARTY TO OR IN ANY WAY MONITOR ANY TRANSACTION BETWEEN YOU AND THIRD-PARTY PROVIDERS OF PRODUCTS OR SERVICES.
- 12.3. FEDERAL LAW, SOME STATES, AND OTHER JURISDICTIONS DO NOT ALLOW THE EXCLUSION AND LIMITATIONS OF CERTAIN IMPLIED WARRANTIES, SO THE ABOVE EXCLUSIONS MAY NOT APPLY TO YOU. THIS AGREEMENT GIVES YOU SPECIFIC LEGAL RIGHTS, AND YOU MAY ALSO HAVE OTHER RIGHTS THAT VARY FROM STATE TO STATE. THE DISCLAIMERS AND EXCLUSIONS UNDER THIS AGREEMENT WILL NOT APPLY TO THE EXTENT PROHIBITED BY APPLICABLE LAW.

### 13. Limitation of Liability

- 13.1. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL, DARENA ITS AFFILIATES, AGENTS, DIRECTORS, EMPLOYEES, SUPPLIERS OR LICENSORS BE LIABLE FOR ANY INDIRECT, PUNITIVE, INCIDENTAL, SPECIAL, CONSEQUENTIAL, OR EXEMPLARY DAMAGES, INCLUDING WITHOUT LIMITATION DAMAGES FOR LOSS OF PROFITS, GOODWILL, USE, DATA OR OTHER INTANGIBLE LOSSES, ARISING OUT OF OR RELATING TO THE USE OF, OR INABILITY TO USE, THIS SERVICE. UNDER NO CIRCUMSTANCES WILL DARENA BE RESPONSIBLE FOR ANY DAMAGE, LOSS, OR INJURY RESULTING FROM HACKING, TAMPERING, OR OTHER UNAUTHORIZED ACCESS OR USE OF THE SERVICE OR YOUR ACCOUNT OR THE INFORMATION CONTAINED THEREIN.
- 13.2. To the maximum extent permitted by applicable law, we assume no liability or responsibility for any (i) errors, mistakes, or inaccuracies of content; (ii) personal injury (except where waiver is not permitted by applicable law) or property damage, of any nature whatsoever, resulting from your access to or use of our Service; (iii) any unauthorized access to or use of our secure servers and/or any and all personal information stored therein; (iv) any interruption or cessation of transmission to or from the Service; (v) any bugs, viruses, trojan horses, or the like that may be transmitted to or via our Service by any third-party; (vi) any errors or omissions in any content or for any loss or damage incurred as a result of the use of any content posted, emailed, transmitted, or otherwise made available via the Service; and/or (vii) User Content or the defamatory, offensive, or illegal conduct of any third-party. In no event shall Darena, its affiliates, agents, directors, employees, suppliers, or licensors be liable to you for any claims, proceedings,

liabilities, obligations, damages, losses, or costs in an amount exceeding the amount you paid to us hereunder for the three (3) months immediately prior to the accrual of the claim.

- 13.3. This limitation of liability section applies whether the alleged liability is based on contract, tort, negligence, strict liability, or any other basis, even if we have been advised of the possibility of such damage. The foregoing limitation of liability shall apply to the fullest extent permitted by law in the applicable jurisdiction.
- 13.4. The Service is controlled and operated from facilities in the United States. We make no representations that the Service is appropriate or available for use in other locations. Those who access or use the Service from other jurisdictions do so at their own volition and are entirely responsible for compliance with all applicable United States and local laws and regulations, including but not limited to export and import regulations. You may not use the Service if you are a resident of a country embargoed by the United States, or are a foreign person or entity blocked or denied by the United States government. Unless otherwise explicitly stated, all materials found on the Service are solely directed to individuals, companies, or other entities located in the United States.

## 14. Governing Law, Arbitration, and Class Action/Jury Trial Waiver

- 14.1. **Governing Law.** You agree that (i) the Service shall be deemed solely based in the state of Missouri; and (ii) the Service shall be deemed a passive one that does not give rise to personal jurisdiction over us, either specific or general, in jurisdictions other than the state of Missouri. These Terms shall be governed by the internal substantive laws of the State of Missouri without respect to its conflict of laws principles. The parties acknowledge that these Terms evidence a transaction involving interstate commerce. Notwithstanding the preceding sentences with respect to the substantive law, any arbitration conducted pursuant to the terms of these Terms shall be governed by the Federal Arbitration Act (9 U.S.C. §§ 1-16). The application of the United Nations Convention on Contracts for the International Sale of Goods is expressly excluded.
- 14.2. **Jurisdiction and Venue.** You agree to submit to the personal jurisdiction of the United States District Court and the state courts located in the state of Missouri, for any actions for which we retain the right to seek injunctive or other equitable relief in a court of competent jurisdiction to prevent the actual or threatened infringement, misappropriation or violation of our copyrights, trademarks, trade secrets, patents, or other

intellectual property or proprietary rights, as set forth in the Arbitration provision below, including any provisional relief required to prevent irreparable harm. You agree that the state courts of the state of Missouri are the proper forum for any appeals of an arbitration award or for trial court proceedings in the event that the arbitration provision below is found to be unenforceable. Each party submits to the personal jurisdiction and venue of such courts and waives any objection thereto, including any objection based on *forum non conveniens*.

- 14.3. **MANDATORY ARBITRATION PROVISIONS.** FOR ANY DISPUTE WITH DARENA, YOU AGREE TO FIRST CONTACT US IN ACCORDANCE WITH SECTION 15.5 BELOW AND ATTEMPT TO RESOLVE THE DISPUTE WITH US INFORMALLY. IN THE UNLIKELY EVENT THAT DARENA HAS NOT BEEN ABLE TO RESOLVE A DISPUTE IT HAS WITH YOU AFTER SIXTY (60) DAYS, WE EACH AGREE TO RESOLVE ANY CLAIM, DISPUTE, OR CONTROVERSY (EXCLUDING ANY CLAIMS FOR INJUNCTIVE OR OTHER EQUITABLE RELIEF AS PROVIDED BELOW) ARISING OUT OF OR IN CONNECTION WITH OR RELATING TO THESE TERMS, OR THE BREACH OR ALLEGED BREACH THEREOF (COLLECTIVELY, "CLAIMS"), BY BINDING ARBITRATION BY JAMS, UNDER THE OPTIONAL EXPEDITED ARBITRATION PROCEDURES THEN IN EFFECT FOR JAMS, EXCEPT AS PROVIDED HEREIN. JAMS MAY BE CONTACTED AT [WWW.JAMSADR.COM](http://WWW.JAMSADR.COM). THE ARBITRATION WILL BE CONDUCTED IN ST. LOUIS, MISSOURI, UNLESS YOU AND WE AGREE OTHERWISE. IF YOU ARE USING THE SERVICE FOR COMMERCIAL PURPOSES, EACH PARTY WILL BE RESPONSIBLE FOR PAYING ANY JAMS FILING, ADMINISTRATIVE AND ARBITRATOR FEES IN ACCORDANCE WITH JAMS RULES, AND THE AWARD RENDERED BY THE ARBITRATOR SHALL INCLUDE COSTS OF ARBITRATION, REASONABLE ATTORNEYS' FEES AND REASONABLE COSTS FOR EXPERT AND OTHER WITNESSES. IF YOU ARE AN INDIVIDUAL USING THE SERVICE FOR NON-COMMERCIAL PURPOSES: (I) JAMS MAY REQUIRE YOU TO PAY A FEE FOR THE INITIATION OF YOUR CASE, UNLESS YOU APPLY FOR AND SUCCESSFULLY OBTAIN A FEE WAIVER FROM JAMS; (II) THE AWARD RENDERED BY THE ARBITRATOR MAY INCLUDE YOUR COSTS OF ARBITRATION, YOUR REASONABLE ATTORNEY'S FEES, AND YOUR REASONABLE COSTS FOR EXPERT AND OTHER WITNESSES; AND (III) YOU MAY SUE IN A SMALL CLAIMS COURT OF COMPETENT JURISDICTION WITHOUT FIRST ENGAGING IN ARBITRATION, BUT THIS DOES NOT ABSOLVE YOU OF YOUR COMMITMENT TO ENGAGE IN THE INFORMAL DISPUTE RESOLUTION PROCESS. ANY JUDGMENT ON THE AWARD RENDERED BY THE ARBITRATOR MAY BE ENTERED IN ANY COURT OF COMPETENT JURISDICTION. NOTHING IN THIS SECTION SHALL BE DEEMED AS PREVENTING DARENA FROM SEEKING INJUNCTIVE OR OTHER EQUITABLE RELIEF FROM THE COURTS AS NECESSARY TO PREVENT THE ACTUAL OR THREATENED INFRINGEMENT,

MISAPPROPRIATION, OR VIOLATION OF OUR DATA SECURITY, INTELLECTUAL PROPERTY RIGHTS OR OTHER PROPRIETARY RIGHTS.

- 14.4. **CLASS ACTION/JURY TRIAL WAIVER.** WITH RESPECT TO ALL PERSONS AND ENTITIES, REGARDLESS OF WHETHER THEY HAVE OBTAINED OR USED THE SERVICE FOR PERSONAL, COMMERCIAL OR OTHER PURPOSES, ALL CLAIMS MUST BE BROUGHT IN THE PARTIES' INDIVIDUAL CAPACITY, AND NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED CLASS ACTION, COLLECTIVE ACTION, PRIVATE ATTORNEY GENERAL ACTION OR OTHER REPRESENTATIVE PROCEEDING. THIS WAIVER APPLIES TO CLASS ARBITRATION, AND, UNLESS WE AGREE OTHERWISE, THE ARBITRATOR MAY NOT CONSOLIDATE MORE THAN ONE PERSON'S CLAIMS. YOU AGREE THAT, BY ENTERING INTO THIS AGREEMENT, YOU AND DARENA ARE EACH WAIVING THE RIGHT TO A TRIAL BY JURY OR TO PARTICIPATE IN A CLASS ACTION, COLLECTIVE ACTION, PRIVATE ATTORNEY GENERAL ACTION, OR OTHER REPRESENTATIVE PROCEEDING OF ANY KIND.

## 15. General

- 15.1. **Assignment.** These Terms and any rights and licenses granted hereunder may not be transferred or assigned by you but may be assigned by us without restriction. Any attempted transfer or assignment in violation hereof shall be null and void.
- 15.2. **Notification Procedures and Changes to These Terms.** We may provide notifications, whether such notifications are required by law or are for marketing or other business-related purposes, to you via email notice, written or hard copy notice, or via posting of such notice on the Service, as determined by us in our sole discretion. We reserve the right to determine the form and means of providing notifications to our Users. We are not responsible for any automatic filtering you or your network provider may apply to email notifications we send to the email address you provide us. We may, in our sole discretion, modify or update these Terms from time to time, and so you should review this page periodically. When we change these Terms in a material manner, we will update the 'last modified' date at the bottom of this page and notify you that material changes have been made to these Terms. Your continued use of the Service after any such change constitutes your acceptance of the new Terms of Use. If you do not agree to any of these terms or any future Terms of Use, do not use or access (or continue to access) the Service.
- 15.3. **Entire Agreement and Severability.** These Terms, together with any amendments and any additional agreements you may enter into with us in connection with the Service, shall constitute the entire

agreement between you and us concerning the Service. If any provision of these Terms is deemed invalid by a court of competent jurisdiction, the invalidity of such provision shall not affect the validity of the remaining provisions of these Terms, which shall remain in full force and effect, except that in the event of unenforceability of the universal Class Action/Jury Trial Waiver provisions, the entire arbitration agreement shall be unenforceable.

15.4. **No Waiver.** No waiver of any term of these Terms shall be deemed a further or continuing waiver of such term or any other term, and our failure to assert any right or provision under these Terms shall not constitute a waiver of such right or provision.

15.5. **Contact.** Please contact us with any questions regarding these Terms at:

Darena Solutions LLC dba Darena Health

Attn: Admin

100 Chesterfield Business Parkway, Suite 200, Chesterfield, MO 63005

Email: [legal@darenasolutions.com](mailto:legal@darenasolutions.com)