NoHo Software End User License Agreement

PLEASE READ THIS AGREEMENT CAREFULLY. BY YOU (HEREINAFTER "USER") MAKING PAYMENT IN FULL OF THE LICENSE FEE AS PROVIDED HEREIN OR INSTALLING OR USING ALL OR ANY PORTION OF THIS SOFTWARE, USER ACCEPTS ALL THE TERMS AND CONDITIONS OF THIS AGREEMENT. USER AGREES THAT THIS AGREEMENT IS LIKE ANY WRITTEN NEGOTIATED AGREEMENT SIGNED BY USER. THIS AGREEMENT IS ENFORCEABLE AGAINST USER. IF USER DOES NOT AGREE TO THE TERMS OF THIS AGREEMENT, USER MAY NOT USE THE SOFTWARE.

This End User License Agreement ("EULA") is a legal agreement by and between User and David Grant, Inc. ("DGI"), a California corporation doing business as NoHo Software ("NoHo") and having its principal place of business at 18757 Burbank Blvd., Suite 210, Tarzana, CA 91356 (individually each a "Party", collectively the "Parties"). If User accepts this EULA, or if User installs or uses the Software, then User agrees to this EULA. If User accepts this EULA or installs or uses the Software on behalf of a business entity, then User represents that User has authority to take those actions, and this EULA will be binding on that business entity unless the entity already has a pre-existing agreement. If User does not agree to this EULA, User must not install or use the Software.

1. Definitions.

1.1. "Confidential Information" shall mean any written machine-reproducible and visual materials; all verbal disclosures made by or on behalf of the Parties under this EULA; the terms of this EULA; any Software, whether in object, source or executable code; documentation and nonpublic financial information; information relating to the Parties' methods of operations; names, addresses, telephone numbers, and other identifying information relating to the Parties' customers, families or providers; compilations and lists of the Parties' customers, families and providers; personnel data relating to any of the Parties' employees and contractors; information contained in placement lists, job orders, applications, files, inter-office referral documents and other documents prepared by or for the Parties and their employees, at the Parties' expense, or on the Parties' time or otherwise in furtherance of the Parties' business; nonpublic plans for new products and services; improvements and marketing strategies; and business contacts, pricing, business plans, techniques, methods, and processes.

1.2. "Documentation" shall mean DGI/NoHo user or technical manuals, training materials, specifications, privacy data sheets, or any other material or information applicable and/or related to the Software.

1.3. "License" shall mean the rights conferred onto User by DGI in accordance with the terms of this EULA, granting User the authority to use and operate the Software.

1.4. "License Fee" for all Software shall be equal to the total of the Annual Maintenance Fee and the Annual License Fee as set by DGI and accepted by User, which acceptance shall be by User signing a proposal issued by DGI for User's first year of use of the Software, or by User's payment in full of the License Fee to DGI for each year of use of the Software or renewal year following User's first year of use.

1.5. "License Code" shall mean a unique, non-guessable sequence that allows User to activate and access the Software following User's payment in full of the License Fee and all other related charges to DGI.

1.6. "SMS" shall mean the short text message sent to and from cellular phones and computers whose text comprises words or numbers or an alphanumeric combination up to one hundred and sixty (160) characters or up to seventy (70) characters if containing one or more Unicode Characters.

1.7. "Software" shall mean all proprietary software programs and services developed by DGI, which DGI licenses to Users, including, but not limited to CARE, Family Portal, Provider Portal, Resource & Referral (R&R), R&R Online, E-List, E-List Online, Attendance Tracking System ("ATS"), and Customer Service Center ("CSC"). It shall also mean (a) all of the information with which this EULA is provided, including but not limited to: (i) software files and other computer information; (ii) any proprietary scripting logic embedded within exported file formats; (iii) sample and stock photographs, images, sounds, clip art, and other artistic works bundled with DGI software or made available on DGI/NoHo's website for use with the product and not obtained from DGI through a separate service (unless otherwise noted within that service) or from another party; (iv) related explanatory written materials and files; and (v) fonts; and (b) any modified versions and copies of, and upgrades, updates, and additions to, such information, provided to User by DGI at any time, to the extent not provided under separate terms.

1.8. "Term" shall mean the date the License commences for User's first year of use of the Software, and for each successive year thereafter that User renews its License, until the expiration date of the License or until termination of this EULA, as defined below in Section 5.

1.9. "Trade Secrets" shall have the meaning as defined under California Civil Code Section 3426.1.

1.10. "User" shall mean the individual or legal entity licensing the Software under this EULA.

2. Software License.

2.1. License Grant. The Software is licensed, not sold. DGI grants User a non-exclusive, non-transferable, non-sublicensed, License to install and/or use the Software (in whole or in part) for such time until either User or DGI terminates this EULA, or the Term of this EULA has lapsed as set forth in Section 5, and in a manner consistent with the terms of this EULA and applicable Documentation. For User to access the Software, User may elect to either have DGI host the Software on DGI's server(s) which will be subject to a separate "Hosting Agreement" between the Parties, or User may store or install a copy of the Software on User's private server.

2.2 Use of License. User must purchase and dedicate a separate License subject to all of the terms and conditions of the EULA for each individual, including the User, employees of the User, and agents of the User, that are designated by the User to access or in any way use the Software ("Designated User"). Each Designated User shall be assigned or create a unique user ID and password stored in the Software, and only Designated Users using their unique user ID and password are authorized to access the Software. User must in no event authorize, enable, or allow, whether known or unknown, any person(s) other than a Designated User to access or in any way use the Software. By way of example, a License may not be shared with and/or used by any person who is not a Designated User. Furthermore, the Software may not be used for any commercial purpose beyond the scope of User's organization or business, or for any personal purpose of any kind whatsoever. Providing, sharing, or otherwise disclosing the Software to a third party without the express written consent of DGI is a violation of intellectual property and copyright laws.

2.3. Support Services. User's License shall include the following benefits in addition to the Software:

Maintenance Updates

From time to time, DGI may develop upgrades or other modifications to the Software by among other things, adding new features or functions to the Software, and enhancing or improving current functions of the Software. There are no additional charges for upgrades/modifications to the Software. If User self-hosts the Software on User's private server, DGI shall notify User of any such upgrades or modifications to the current release of the Software, and shall make the upgrades/modifications available for User's download from the NoHo official website (www.nohosoftware.com), which download shall be performed by User at its sole discretion. If DGI hosts User's database(s), DGI shall notify User of the any such upgrades or modifications to the current release of the Software, including the date and time of DGI's scheduled update to

User's database(s). Users with database(s) hosted by DGI may elect not to have DGI update their database(s) with the upgrades/modifications by notifying DGI prior to the date and time of DGI's scheduled update that User wants to opt-out of the update. User acknowledges that DGI may condition any warranty of the Software upon User's complete installation or acceptance of a version of the Software that is at all times within two (2) versions of DGI's most current release of the Software. User further acknowledges that DGI may discontinue support of any Software that is more than two versions older than DGI's most current version of the Software. Any updates/modifications shall be deemed to be, and shall constitute part of, the Software for purposes of this EULA.

Telephone Support Access

DGI technical support staff shall be available to User for questions pertaining to the operation of the Software. If User experiences problems with operational or technical features of the Software, DGI shall put forth its best effort to answer questions via telephone or email, and at no additional charge to User. If User self-hosts the Software on User's private server, and support issues arise that require DGI support staff to perform custom programming services or to connect to User's database to perform repair services due to User error or inaccurate data entry may be charged at DGI's current rates for such programming or repair services.

Remote Access Support for Self-Hosted Users

If User self-hosts the Software on User's private server, DGI's software and technical support specialists shall be available to address operational or technical problems by using remote access software for issues that cannot be resolved via telephone support. This service requires User to have access to a computer system running the Software at User's site, equipped with an internet connection. This service may not be available or may be declined due to security permissions of User's network, preventing DGI from accessing and addressing the operational or technical problem. By acceptance of this EULA, User consents to such remote access of User's computer by DGI when such access is requested by User.

Consulting and Programming Services

DGI provides various consulting and programming services, including but not limited to custom programming and data conversion services, all of which are performed for a fee and are charged at DGI's current rate for such services. If User self-hosts the Software on User's private server, the on-site presence of a DGI software consultant may be required to handle support issues when attempting to solve a problem for User, if telephone or remote access to User's computer is unavailable. These on-site consulting services are performed for a fee and are

charged at DGI's current rate for such services. Some of these on-site consulting services include, but are not limited to:

- Software Installation
- On-Site Technical Support
- Software Configuration
- Software Training

SMS Functions

Software may include DGI's SMS feature, enabling User to deliver mobile terminated SMS texting to multiple end-users through multiple mobile networks worldwide. Acceptance of this EULA does not constitute consent to DGI's SMS services, and such consent shall only be established by a separate "Messaging Services Agreement" provided to User for the purchase of the SMS feature in the Software.

2.4. Time and Place of Support Services. Any support services related to the Software, as mentioned in Section 2.3 above, shall be performed remotely from DGI's offices during DGI's normal business hours: 8:30 a.m. to 5:30 p.m., Monday through Friday, PST. Any service physically performed at User's site shall be charged at DGI's current rate for such services.

3. License Restrictions.

3.1. Restrictions. User may not copy any of the materials accompanying the Software, whether printed or in digital form, except for the exclusive internal use of employees of the User who are permitted under User's License for use of the Software.

3.2. Use Obligations. User agrees that it will not use the Software other than as permitted by this EULA and that it will not use the Software in a manner inconsistent with its intended design or operation.

3.3. No Modifications. User may not, under any circumstance, reverse engineer, decompile, disassemble, or otherwise attempt to discover the source code of the Software.

3.4. No Transfer. User shall not rent, lease, sell, sub-license, assign, or transfer its rights in the Software, including without limitation, Software obtained through a web download, or authorize any portion of the Software to be copied onto another individual or legal entity's computer except as may be expressly permitted by DGI.

4. Payment.

4.1. Fees. If User is a new or first time User of the Software, the License Fee for the Software, and any other related fees, shall be paid in full by User to DGI immediately upon receipt of the NoHo invoice sent to User by DGI. If User is renewing its License for another one-year Term, the License Fee for the Software, and any other related fees, shall be paid in full by User to DGI on or before the expiration date of User's current License. Payment in full by User of the License Fee shall constitute acceptance by User of this EULA. Payment in full of the License Fee by User is required prior to User being issued or sent a License Code by DGI that grants User access to the Software. Sales tax may be added to the License Fee where applicable, and must be paid in full to DGI by User with payment of the License Fee.

4.2. License Extension. If User holds a current License and wants to renew the License for another one-year Term, but is unable to make payment in full of the License Fee for the one-year renewal term prior to the expiration date of User's current License, the User may request a two-week temporary extension of User's current year's License, which extension shall not be unreasonably withheld by DGI. Any request for an additional extension of User's current year's license beyond a two-week temporary extension as provided herein must be for good cause, and shall only be granted in the sole discretion of DGI.

4.3. Effect of Payment. The purchase and grant of the License is finalized when DGI issues or sends the License Code to User, which shall include the future expiration date of such License granted to User. User shall enter the License Code provided by DGI into the Software, and thereafter shall be granted full use and access to the Software for the Term.

4.4. Adding Licenses. If User adds one or more Licenses during any Term, User shall pay the Initial Set Up Fee in full for each License added, however DGI shall pro-rate the Annual License Fee for the remainder of the current Term.

4.5. Refunds. The purchase by User of the License is for a one-year Term, and may be renewed for additional one-year Terms as provided in Section 5.2. If User terminates its License at any time prior to the expiration date of any Term for any reason, including a material breach by DGI as provided in Section 5.3, User will not be entitled to or paid a refund of any of the License Fee or any other related fees or charges paid to DGI by User.

5. Term and Termination.

5.1. Term. For a new or first time User of the Software, the Term of User's License shall commence on the date that DGI receives payment in full of the License Fee from User. The User may elect to renew its License on or before the end of each one-year Term, unless otherwise

specified herein. If User holds a current License and elects to renew the License for another one-year Term, the new Term of User's License shall commence on the expiration date of User's current Term, provided DGI receives payment in full of the License Fee from User prior to the expiration date of the current Term, or any extension thereof as provided in Section 4.2. The Term of this EULA shall continue until the end of the Term or until the License and/or this EULA is terminated.

5.2. Renewal. Following the end of each one-year Term, the Parties have no obligation to renew the License. User may elect to renew its License for another one-year Term by paying the License Fee in full on or before the expiration date of its current Term. DGI may change the prices of its Software from time to time, and as a result, the License Fee may change for any renewal Term.

5.3. Termination. This EULA automatically terminates at the end of User's Term unless User renews its License as provided in Section 5.2. If a Party materially breaches this EULA and does not cure that material breach within thirty (30) days after receipt of written notice of the breach, the non-breaching Party may terminate this EULA for cause. No early termination of this EULA by either Party shall entitle User to a partial or full refund of the License Fee or any other related fees paid to DGI. Upon termination of the EULA, User must cease any further use of the Software and destroy any copies of the Software within User's control.

5.4 Effect of Termination. For Users whose database(s) are hosted by DGI, DGI shall within thirty (30) days following termination of this this EULA (i) remove all encryption, stored procedures, and functions from User's database; (ii) shall place User's database in DGI's FTP site for User to retrieve; and (iii) notify User of the information needed for User to download User's database. Immediately after the earlier of User downloading User's database as provided herein or forty-five (45) days following termination of this EULA, DGI shall delete User's database from DGI's server(s).

6. **Intellectual Property and Ownership.**

The Software is the intellectual property of and is owned by DGI. DGI's intellectual property includes, but is not limited to, the structure, organization, and source code of the Software and is the valuable Trade Secrets and Confidential Information of DGI. The Software is protected by law, including but not limited to, the federal copyright laws of the United States. Except as expressly stated herein, this EULA does not grant User any intellectual property rights in or to the Software. All rights not expressly granted are reserved by DGI.

6.1. Non-Disclosure. The Parties agree to receive and maintain the Trade Secrets and Confidential Information of the Parties as a confidential disclosure and shall not disclose such

Trade Secrets and Confidential Information, or any part thereof, to any other person or entity, or use or permit any use of such Trade Secrets and Confidential Information or any part thereof, or attempt to sell, assign, convey, lease, sub-license, commercially exploit, disclose, and/or otherwise market or use, in any way or manner, except as herein expressly permitted, except as follows: (i) with the Parties' prior written consent in each instance of disclosure; or (ii) if any Party is required by law to disclose the Parties' Trade Secrets or Confidential Information, but only after prompt notice to the applicable Party, such that it has a reasonable opportunity to oppose or prevent a disclosure, and only to the extent so required. The foregoing non-disclosure obligations shall not apply to Trade Secrets or Confidential Information which (i) is or becomes publicly available other than through the breach of this EULA, (ii) which was known to the recipient prior to the disclosure by the other Party, (iii) which a Party rightfully receives from a third party not bound by any confidentiality agreement with respect thereto, (iv) which is independently developed by the recipient, or (v) which is required to be disclosed pursuant to legal or governmental requirements; provided that disclosure under this clause shall be limited to persons and/or entities legally entitled to receive such information.

7. Limited Warranty.

Except as otherwise provided, DGI warrants that the Software shall perform substantially in accordance with the corresponding user manual for the Software, as amended by release notes issued or published by DGI from time to time, for the Term following User's receipt of the Software ("Warranty Period"). This warranty does not apply if the Software (i) has been altered, except by DGI or its authorized representative; (ii) has not been installed, operated, repaired, or maintained in accordance with instructions supplied by DGI; (iii) has been subjected to abnormal physical or electrical stress; (iv) has not been provided to User by DGI directly or an authorized representative of DGI. DGI shall use commercially reasonable efforts to deliver Software to User free from any viruses, source code errors, programs, or programming devices designed to modify, delete, damage, or disable the Software or User's data.

7.1. Disclaimer of Warranties. Except as otherwise provided under this EULA and to the maximum extent permitted by applicable law, DGI (a) disclaims all implied warranties and conditions related to the Software, including merchantability, fitness for a particular purpose, title, and non-infringement; and (b) disclaims any warranty or condition arising by statute, operation of law, course of dealing or performance, or usage of trade. This Section does not affect or modify any of the statutory warranty rights that are available to Users.

7.2. Exclusive Remedy. Upon User's prompt written notification to DGI during the Warranty Period of DGI's breach of this Section, to the extent permitted by applicable law, User's sole and exclusive remedy is, at DGI's option, either: (i) repair or replacement of the Software; or (ii) a refund of the license fees paid for the non-conforming Software. DGI technicians and/or

consultants may ask User to return or destroy the Software and any related materials as a condition of the Software remedy.

8. Limitation of Liability.

In no event shall DGI be liable for the following, regardless of the theory of liability or whether relating to or arising out of this EULA, the Software or otherwise, even if a Party has been advised of the possibility of such damages: (i) indirect, incidental, exemplary, special or consequential damages; (ii) loss or corruption of data or interrupted or loss of business; or (iii) loss of revenue, profits, goodwill or anticipated sales or savings. All liability of DGI, its employees, agents, representatives, successors and assigns, to User, whether based in warranty, contract, tort (including negligence), or otherwise, shall not exceed, in the aggregate, the total fees attributable to the twelve (12) month period before the initial claim and paid or payable by User. This limitation of liability for Software is cumulative and not per incident. Nothing in this EULA limits or excludes any liability that cannot be limited or excluded under applicable law.

9. Governing Law.

The sections of this EULA and all questions with respect to the construction and enforcement thereof and the rights and liabilities of the Parties hereto shall be governed by, and construed and enforced, in accordance with the laws of the State of California. The venue of any action construing or enforcing this EULA initiated by any Party hereto shall be filed in the state or federal courts servicing California located in Los Angeles County.

10. Survival.

The expiration or earlier termination of this EULA shall not impair or affect any liability or obligation of DGI or User which has accrued on or before the date of expiration or earlier termination of this EULA. Further, unless otherwise specifically provided in this EULA, all provisions of this Contract which by their nature contemplate performance after the expiration or earlier termination hereof, including but not limited to all provisions that contain obligations of confidentiality, trade secrets, non-disclosure and privacy (§6), warranties (§7), limitations of liability (§8), governing law (§9), survival (§10), integration (§11), notices (§12), and reservation of rights and waiver (§14), shall survive such expiration or earlier termination of this Contract

11. Integration.

If any portion of this EULA is found to be void or unenforceable, the remaining provisions of the EULA shall remain in full force and effect. Except as expressly stated or as expressly amended in

a signed agreement, this EULA is the complete agreement between the Parties with respect to the Software and the License, and supersedes all prior or contemporaneous communications, understandings, or agreements (whether written or oral) regarding this subject matter. In the event of any conflict, the order of precedence is: (i) supplemental terms; (ii) these license terms (excluding supplemental terms); then (iii) any applicable policies referenced in this EULA. The Parties agree that this EULA shall govern in the event of a conflict.

12. Notice.

DGI may provide User with notice via email, regular mail, and/or postings on the nohosoftware.com website or any other website used with the Software. Notices from User to DGI should be sent to DGI's principal place of business, 18757 Burbank Blvd., Suite 210, Tarzana, CA 91356, or via email to support@nohosoftware.com, unless this EULA, applicable supplemental terms, or modification specifically allows other means of notice.

13. Force Majeure.

Except for payment obligations, neither Party shall be responsible for failure of performance due to an event beyond the affected Party's reasonable control, including accidents, severe weather events, acts of God, actions of any government agency, pandemic, acts of terrorism, or the stability or availability of the Internet or portions thereof.

14. Reservation of Rights.

Failure to enforce any right under this EULA by either Party will not waive that right.