

CONTOUR DIABETES App – End User License Agreement

Last Updated: March 1, 2019

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The End User License Agreement (“EULA” or “License”) is a legal agreement between you, the “User”, and Ascensia governing your use of the App. “App” means the CONTOUR™DIABETES mobile application software, any content, tools, help documentation and all services under the control of Ascensia that are operated in connection with the App (collectively, the “Services”). Use of this App, which includes accessing, browsing, or registering to use this App, is subject to the following EULA (together with the documents referred to in it).

BY CLICKING ACCEPT YOU (I) INDICATE THAT YOU INTEND YOUR ACT TO SERVE AS AN ELECTRONIC SIGNATURE TO THIS LICENSE WITH THE SAME FORCE AND EFFECT AS A MANUAL SIGNATURE, (II) REPRESENT AND WARRANT THAT YOU ARE OVER THE LEGAL AGE OF MAJORITY SUCH THAT YOU HAVE CAPACITY TO AGREE THIS LICENSE, AND (III) REPRESENT AND WARRANT THAT YOUR REGISTRATION AND YOUR USE OF THIS APP IS IN COMPLIANCE WITH ALL APPLICABLE LAWS AND REGULATIONS APPLICABLE TO YOU.

This App can be used with iOS (Apple) and Android (Google) smartphones but may not be compatible with all operating system versions. Please check compatibility with your operating system and phone before download. This App is compatible with the CONTOUR™ portfolio of blood glucose meters (“Contour™ Connected Meter”) and other Bluetooth enabled devices or other products designated to be compatible with the Contour App.

1. **License.** The App, including the application software and related help documentation provided by Ascensia, may be downloaded and installed on one or more mobile devices for use in connection with a Contour Connected Meter, including any tools, help documentation and updates. Subject to your ongoing compliance with this EULA, Ascensia grants you the limited, non-exclusive, royalty-free, non-transferable, non-sublicensable, revocable license to use one copy of the App and all related help documentation per a single mobile device you own or control for your personal, non-commercial use for lawful purposes during the Term of License. This App is licensed, not sold, by Ascensia for use only under the terms of this License, and Ascensia reserves all rights not expressly granted to you. Ascensia retains ownership of all rights, title and interest in and to this App. Except for the limited rights and licenses expressly granted under this EULA, nothing in this EULA grants, by implication, waiver, estoppel, or otherwise, to you or any third party any intellectual property rights or other right, title, or interest in or to the Ascensia intellectual property.

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2. **Permitted Uses and Restrictions of the App.** This App is provided for domestic and private use only. You may use this App with more than one Contour Connected Meter where you have a user account. You shall not distribute, rent, lease or otherwise transfer all or any part of this App or help documentation to any third party without Ascensia’s prior written consent. You shall not sublicense, distribute, post, assign or otherwise transfer or make available all or any part of the rights granted to you by Ascensia under this EULA without Ascensia’s prior written consent. If this App is an update, any transfer must include the update and all prior versions. You shall not modify, adapt or translate this App or accompanying help documentation. You shall not alter or remove copyright and other proprietary notices that appear on or in this App or accompanying help documentation. You shall not encourage, permit or have a third party, reverse engineer, decompile, disassemble, or translate this App, or interfere with or circumvent any feature of this App or any part thereof, including any security or access control mechanism. If you are prohibited under applicable law from using this App, you may not use it.

3. **Term of License; Termination.** This EULA is effective until terminated by you or Ascensia. You may terminate your account at any time by using the “Delete Account” option in the App or contacting customer service by visiting <http://contact.ascensia.com>. If you fail to comply with any term of this EULA, your license and permission from us to use this App will immediately terminate automatically, and you agree that your failure to comply with this EULA will constitute immediate, irreparable harm to Ascensia and its licensors for which monetary damages would be an inadequate remedy and that, to the extent permitted under applicable law, Ascensia will be entitled to equitable relief, unless you can prove that no irreparable harm has occurred. In addition, Ascensia may, in its sole discretion, terminate your user account on the Service or suspend or terminate your access to this App at any time if you violate any provision of this EULA once you fail to mitigate your violation within 14 days. We may also terminate your user account if we no longer provide any part of this App with or without 30 days’ notice. Upon the termination of your account for any reason, Ascensia may, at its option, delete any non-personal data you submitted through this App or provided via the Service. Upon the termination of your account for any reason, Ascensia shall delete any personal data you submitted through this App or provided via the Service except where Ascensia is otherwise required to retain it by law. Upon termination of this EULA, you shall, at your own responsibility and expense, immediately delete or destroy this App on your devices.

4. **Enhancements and Updates.** From time to time, Ascensia may, at its sole discretion, provide enhancements, updates or new versions of this App on its then standard terms and conditions thereof. This EULA shall also apply to such enhancements and updates.

5. **Access to this App.** We do not guarantee that this App, or any feature or content on it, will always be available or be uninterrupted, and your access to this App is permitted on a temporary basis. We may suspend, withdraw, discontinue or change all or any part of this App without notice. You are responsible for making all arrangements necessary for you to have access to this App and acknowledge that there are risks inherent in software, hardware and internet connectivity that may result in interruptions or errors in and to the data transmitted or displayed using this App, regardless of measures taken to mitigate or avoid such occurrences.

You are also responsible for ensuring that all persons who access this App through your internet connection are aware of this EULA and other applicable terms, and that they comply with them.

6. **Registration.** You must register and set up an account in order to use this App. Once you set up an account, your data will be stored in the cloud. A cloud storage account will provide you with the benefit of storing the data collected via this App, including personal information, glucose data and readings from your Contour Connected Meter so you can later access that data. If you choose, or you are provided with, a user identification code, password or any other piece of information as part of our security procedures, you must treat such information as confidential. You must not disclose it to any third party.

Provision of the Service is subject to your agreement to and compliance with the terms of this EULA. You are only permitted to set up one Service account per user and Ascensia reserves the right to limit the number of devices associated with an account. You agree that meeting these requirements is your responsibility and that you will be responsible for obtaining and maintaining any internet connections (fees may apply), computing equipment and supplies necessary for you to receive, access and use the Service. You agree to only use the Service as expressly permitted herein. Ascensia and its affiliates and suppliers own all rights, titles and interests in and to Service.

Once registered, you agree that the data you transmit using this App is specific to you. You acknowledge and agree that this Service is designed and intended for personal use on an individual basis and you should not share your account and/or password details with any other person. If another person wishes to use this App, that person should download this App directly to his or her device and separately and individually agree to the EULA.

You are solely responsible for maintaining the confidentiality and security of your App account and for all activities that occur on or through it. We have the right to disable any user identification code or password, whether chosen by you or allocated by us, at any time, if in our reasonable opinion you have failed to comply with any of the provisions of this EULA.

If you know or suspect that anyone other than you knows your user identification code or password, you must promptly notify us by contacting customer service by visiting <http://contact.ascensia.com>.

7. **Limitations on Use of the Service:** You agree to use the Service only for purposes permitted by this EULA, and only to the extent permitted by any applicable law, regulation, or generally accepted practice in the applicable jurisdiction. If your use of the Service or other behavior intentionally or unintentionally threatens our ability to provide the Service, we may take all reasonable steps to protect the Service, which may include suspension of your access to the Service. Nothing in this EULA shall be construed to convey to you any interest, title, or license in a Service account or similar resource used by you in connection with the Service. You agree that you will not reproduce, copy, duplicate, sell, resell, rent or trade the Service (or any part thereof) for any purpose.

8. **Data Usage:** You retain ownership of all personal data uploaded via this App and stored on the Service and are responsible for the content and accuracy of details you provide to Ascensia as well as for the non-violation of any third-party rights that may be included in such data. Where applicable under local law, by using the Service, you grant Ascensia a worldwide, royalty-free, non-exclusive license to use, distribute, reproduce, modify, adapt, publish, translate, create, access, and retain technical data and related information—including but not limited to technical information about your device, system and application software, and peripherals—that is gathered periodically to facilitate the provision of software updates, product support, and other services to you (if any) related to the App, and to track and report your activity when using the App, including for analytics purposes. Ascensia may use this information, as long as it is in a form that does not personally identify you, to improve its products or to provide services or technologies to you, as set out in our App Privacy Policy.

9. **Location Information:** During the App registration process we will ask you to enable certain features of your mobile device to grant Ascensia the ability to collect your precise or approximate geo-location which is derived from device or your Contour Connected Meter through IP address or GPS, mobile, Wi-Fi, or Bluetooth signals, as available. You may also enable our collection of location data through the device settings. If you consent to such collection, we will use this information to improve our products and services, including for our meter placement strategy. Please see our App Privacy Policy for more details regarding the information Ascensia collects and how it uses and discloses such information.

10. **iOS Users:** During the App registration process we will ask you to grant Ascensia access to your Apple Inc.'s ("Apple") Health app on your device, including access to Apple's Health app database, "HealthKit", within that app for the purposes of enhancing and/or verifying the data processed within our App. We set out in our App Privacy Policy details of the personal data our App accesses and how the App processes it. You can switch off the access, or adjust which data the Apple Health app and our App share, within your device's Health app permissions at any time.

11. **Prohibitions:** You agree that you will NOT use this App or your Service account to, directly or indirectly:

(a) upload, download, email, transmit, store or otherwise make available any data that is unlawful, harmful, tortious, invasive of another's privacy, or otherwise objectionable;

(b) perform any fraudulent activity, including by pretending to be someone you are not or misrepresenting who you are or your age, sending data from another person's meter or to harm another, or otherwise misrepresenting your affiliation with any person, including a minor (Ascensia reserves the right to reject or block any device or email address which could be deemed to be an impersonation or misrepresentation of your identity, or a misappropriation of another person's name or identity);

(c) upload, download, email, transmit, store or otherwise make available any data or other information from any person under the legal age of majority;

(d) engage in any copyright infringement or other intellectual property infringement (including uploading any content to which you do not have the right to upload), or disclose any trade secret or confidential information in violation of a confidentiality, employment, or nondisclosure agreement;

(e) post, send, transmit or otherwise make available any unauthorized email messages, spam, or chain letters, including, without limitation, bulk commercial advertising and informational announcements;

(f) upload, post, email, transmit, store or otherwise make available any material that contains viruses or any other computer code, files or programs designed to harm, interfere or limit the normal operation of the App (or any part thereof), or any other computer software or hardware;

(g) interfere with or disrupt the App (including accessing the App through any automated means, like scripts or web crawlers), or any servers or networks connected to the App, or any policies, requirements or regulations of networks connected to the App (including any unauthorized access to, use or monitoring of data or traffic thereon);

(h) gather and store personal information on any other users of the App to be used in connection with any of the foregoing prohibited activities;

(i) violate any right of a third party, including by infringing or misappropriating any third party intellectual property right, or violating any third party privacy right;

(j) modify, translate, or create derivative works, adaptations or compilations of, or based on, this App or part thereof, or use, copy or reproduce this App or any part thereof other than as expressly permitted in this EULA;

(k) assign, sublicense, lease, sell, grant a security interest in, or otherwise transfer the access granted under this EULA or any right or ability to view, access, or use any Ascensia materials; and/or

(l) attempt to do any of the acts described in this Section 11, or assist, encourage, or permit any person in engaging in any of the acts described in this Section 11.

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13. **Back-Ups.** Ascensia has no responsibility for retaining/storing or backing up any information or data that you generate using this App. You are solely responsible for retaining/maintaining/storing and backing up (electronically and/or with hard copies) any data that you wish to preserve for future use or otherwise. If you choose to share your information via email, back up or otherwise with third parties, that information may not be encrypted and Ascensia will have no ability to manage the privacy or security of that information. You should take the steps that you determine are appropriate to protect the security of your information. If you choose to terminate your Service account, it may take us up to 30 days to delete your account, and either delete or make information either anonymous or untraceable to you. Unless otherwise required by law, you agree that your Service account is non-transferable and any right to data stored in your account will terminate upon your death. Upon receipt of a copy of a death certificate, your account may be terminated and all data within deleted..

14. **No Reliance on Information.** Ascensia has compiled the detailed information provided on this App from internal and external sources to the best of its knowledge and belief, using professional

diligence. We make reasonable efforts to expand and update this range of information on an on-going basis. The information on this App is purely for the purpose of presenting Ascensia, its products and services and for general information only. It is not intended to amount to advice on which you should rely. We recommend you obtain professional or specialist advice before taking, or refraining from any action on the basis of the content on this App.

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16. **No Medical Advice. THIS APP IS FOR INFORMATIONAL PURPOSES ONLY. THIS APP IS NO SUBSTITUTE FOR PROFESSIONAL MEDICAL ADVICE, DIAGNOSIS, TREATMENT OR EMERGENCY INTERVENTION OR TRANSMISSION OF TIME-CRITICAL DATA. USERS SHOULD ALWAYS SEEK THE ADVICE OF THEIR HEALTHCARE PROVIDERS FOR ANY QUESTIONS REGARDING THEIR MEDICAL CONDITION. YOU AGREE THAT THIS APP SHOULD NOT BE USED TO MAKE MEDICAL DECISIONS. USERS SHOULD NEVER DISREGARD PROFESSIONAL MEDICAL ADVICE OR DELAY IN SEEKING IT BECAUSE OF INFORMATION PROVIDED VIA THIS APP.** It is possible that a user's glucose levels will go up or down to levels that are very high or very low. It is also possible that individuals may experience other diabetes-related changes in their medical condition. Users should follow their healthcare provider's advice in relation to those of their blood glucose readings that are too high or low and for any other diabetes-related changes in their medical condition. This App is designed to help users better manage their diabetic condition. Users are responsible for communicating their levels and other diabetes-related information and for seeking appropriate medical advice. **YOU ASSUME ALL RESPONSIBILITY FOR YOUR USE OF THIS APP AND FOR ALL DECISIONS TO TAKE OR NOT TAKE ACTION BASED ON ANY INFORMATION PROVIDED OR DISPLAYED VIA THIS APP. USE OF THIS APP IS SOLELY AT YOUR OWN DISCRETION AND RISK. NEITHER ASCENSIA, NOR ANY OF ITS AFFILIATED COMPANIES OR LICENSORS, ARE RESPONSIBLE OR LIABLE FOR ANY DIAGNOSIS, DECISION OR ASSESSMENT MADE BY A USER OR ANY INJURIES A USER MAY INCUR AS A RESULT OF ANY DECISIONS MADE BASED ON THE INFORMATION PROVIDED VIA OR DISPLAYED ON THIS APP OR OTHER CONTENT OF THIS APP AND DOCUMENTATION.**

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18. **For EU users the following applies:** The App is provided “as is” and the service “as available” with certain downtimes. Ascensia does not promise specific service levels under these terms. Ascensia undertakes best efforts to minimize downtimes with regard to the App and the Service. Ascensia excludes all warranties and shall only be liable for fraudulently concealed defects.

19. **Limited Liability:** Nothing in this EULA excludes or limits our liability for death or personal injury arising from our negligence, or our fraud or fraudulent misrepresentation, or any other liability that cannot be excluded or limited by law. Unless otherwise prohibited by applicable law, the liability of Ascensia, its affiliates, directors, officers, employees, suppliers, licensees and representatives for any direct or indirect, foreseeable or unforeseeable, incidental, special, punitive, typical or non-typical or consequential damages or loss of profits, whether derived from tort, (including negligence), breaches of contract, statute, culpa in contrahendo, positive breach of duty or any other legal concept, arising under or in connection with:

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- access or use of or reliance on any content or material displayed on or available through this App

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EACH PROVISION OF THIS EULA THAT PROVIDES FOR A LIMITATION OF LIABILITY, DISCLAIMER OF WARRANTIES, OR EXCLUSION OF DAMAGES IS INTENDED TO AND DOES ALLOCATE THE RISKS BETWEEN THE PARTIES UNDER THIS EULA. THIS ALLOCATION IS AN ESSENTIAL ELEMENT OF THE BASIS OF THE BARGAIN BETWEEN THE PARTIES. EACH OF THESE PROVISIONS IS SEVERABLE AND INDEPENDENT OF ALL OTHER PROVISIONS OF

THIS EULA. THE LIMITATIONS IN THIS SECTION 19 WILL APPLY EVEN IF ANY LIMITED REMEDY FAILS OF ITS ESSENTIAL PURPOSE.

For users in Germany:

Ascensia shall only be liable for damages caused by gross negligence or intent. Any other liability of Ascensia for damages is excluded. The aforesaid limitations of liability shall not apply to any mandatory statutory liability, in particular to liability under the German Product Liability Act (Produkthaftungsgesetz). In addition, the limitations of liability shall not apply if and to the extent Ascensia has assumed a specific guarantee.

20. **Consumer Protection Notice.** Please note that, if you are a consumer, the limitations in this EULA are intended to be only as broad and inclusive as is permitted by the laws of your jurisdiction of residence.

- **Legal notice for New Jersey residents.** No provision in this EULA shall apply to any consumer in New Jersey if the provision limits redress for/under: (i) Ascensia's tortious actions (e.g., negligence, failure to exercise a basic standard of care, failure to avoid creating an unreasonable risk of harm); (ii) the New Jersey Products Liability Act, N.J.S.A. 2A:58C-1, et seq. (i.e., the statutorily imposed duty to refrain from manufacturing and selling dangerous products, with the possibility of punitive damages for violations thereof); (iii) the New Jersey Punitive Damages Act, N.J.S.A. 2A:15-5.9, et seq. (i.e., the statutory right to pursue punitive damages in the event of harm caused by actual malice, wanton and willful disregard, reckless indifference); (iv) the New Jersey Uniform Commercial Code (i.e., a comprehensive statutory regime governing the rights and duties of buyers and sellers with respect to contracts for the sale of goods, with the possibility of damages for economic and property harm); and (v) Ascensia's failure to reasonably protect against harm arising from certain criminal acts of third parties (e.g., computer hacking and identity theft, as regulated by the Federal Trade Commission and the Federal Communications Commission, and as governed by the New Jersey Identity Theft Protection Act, N.J.S.A.56:8-161, et seq., and the New Jersey Consumer Fraud Act, N.J.S.A. 56:8-3, et seq.). With respect to this EULA, the provisions concerning the exclusion or limitation of certain damages is not applicable in New Jersey with respect to statutory damages, punitive damages, loss of data, and loss of or damage to property.
- **Legal notice for California residents.** If you are a California resident, under California Civil Code Section 1789.3, you may contact the Complaint Assistance Unit of the Division of Consumer Services of the California Department of Consumer Affairs in writing at 1625 N. Market Blvd., Suite S-202, Sacramento, California 95834, or by telephone at (800) 952-5210 in order to resolve a complaint regarding this App or to receive further information regarding use of this App.

21. **Site with login: access rights.** Please note that you are obliged to protect your access rights from unauthorized third-party use and that you must ensure that they cannot be used by others without your authorization. You must notify Ascensia immediately if you learn that security has been violated in respect of any details available on this App or if unauthorized persons have obtained your access rights or if you have found indications that such access might become possible.

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24. **Indemnity.** To the fullest extent permitted by law, you agree to indemnify, defend and hold harmless Ascensia, its affiliates and their respective officers, directors, employees and agents from and against any and all claims, liabilities, losses, damages, costs and expenses (including attorneys' and experts' fees) incurred by any of them in connection with (a) your access to, use of, or alleged use of, this App; (b) any culpable breach of the License by you or others in your household or organisation or otherwise in connection with your or their use of this App; and (d) fraud, intentional misconduct, criminal acts or gross negligence committed by you. The sum of compensation in accordance with this Section 24 shall be limited to the highest amount recoverable under the laws of the jurisdiction in which you reside.

25. **Trademarks.** "Ascensia", "Contour" and any other trademarks used in connection with this App, are trademarks of Ascensia. You agree not to display or use in any manner such trademarks without Ascensia's prior written permission.

26. **Changes to this EULA.** We reserve the right, at our discretion, to change this EULA on a going-forward basis at any time. If we revise this EULA in a manner that materially modifies your rights or obligations, you will be provided with an opportunity to accept the new terms and conditions. If you agree, then the revised EULA will apply to your use of this App as the revised EULA is binding on you. Immaterial modifications to this EULA are effective upon publication. Disputes arising under this EULA will be resolved in accordance with the version of this EULA that was in effect at the time the dispute arose. We may update this App from time to time, and may change the content at any time. However, please note that any of the content on this App may be out of date at any given time, and we are under no obligation to update it. We do not guarantee that this App, or any content on it, will be free from errors or omissions.

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28. **Taxes and Duties.** You shall be responsible for the payment of all taxes, duties or levies that may now or hereafter be imposed by any authority upon this EULA for the supply, use or maintenance of this App and/or any use of this App, including in relation to taxes, duties or levies in relation to internet connectivity and use to the extent permitted under applicable law, and if any of the foregoing taxes, duties or levies are paid at any time by Ascensia, you shall reimburse Ascensia in full upon demand.

29. **Assignment.** Ascensia may assign, transfer, novate or subcontract any or all of its rights or delegate any or all of its obligations under this EULA without any prior written consent if such assignment and/or delegation is to an affiliate within the Ascensia group of companies or to any successor of Ascensia Diabetes Care Holdings AG by purchase of all or substantially all of its assets.

30. **Governing Law and Venue.** This EULA, its subject matter and its formation, are governed by and shall be construed in accordance with the laws of Switzerland without giving effect to any conflict of law principles. Mandatory consumer protecting provisions arising from the jurisdiction of the user's habitual residence apply and are not excluded by this choice of law. This EULA shall not be governed by the United Nations Convention on Contracts for the International Sale of Goods, the application of which is expressly excluded. Except for Russian users as provided below, the court of the city of Basel, Switzerland shall have exclusive jurisdiction over any dispute arising out of or in connection with this EULA.

For Russian users the following applies: Any dispute arising out of or in connection with this EULA shall be resolved either by the court at Ascensia's location or at your place of residence depending on the respective claimant's choice.

31. **Feedback.** If you choose to provide input or suggestions regarding your experience with this App ("Feedback"), then you hereby grant Ascensia an unrestricted, perpetual, irrevocable, non-exclusive, fully-paid, royalty-free right to exploit such Feedback in any manner and for any purpose, including to improve this App and create other products and services.

32. **Force Majeure.** To the fullest extent permitted under applicable law, Ascensia will be excused from performance under this EULA for any period that it is prevented from or delayed in performing any obligations pursuant to this EULA, in whole or in part, as a result of a force majeure event or series of such events caused by or resulting from: (a) weather conditions or other elements of nature or acts of God; (b) acts of war, acts of terrorism, insurrection, riots, civil disorders or rebellion; (c) quarantines or embargoes, (d) telecommunications, network, computer, server or Internet disruption or downtime; or (e) other causes beyond the reasonable control of Ascensia.

33. **Notice Regarding Apple.** This Section 33 only applies to the extent you are using this App on an iOS device. You acknowledge that this EULA is between you and Ascensia only, not with Apple, and Apple is not responsible for this App and the content thereof. Apple has no obligation whatsoever to furnish any maintenance and support services with respect to this App. In the event of any failure of this App to conform to any applicable warranty, you may notify Apple and Apple will refund any applicable purchase price for this App to you; and, to the maximum extent permitted by applicable law, Apple has no other warranty obligation whatsoever with respect to this App. Apple is not responsible for addressing any claims by you or any third party relating to this App or your possession and/or use of this App, including: (a) product liability claims; (b) any claim that this App fails to conform to any applicable legal or regulatory requirement; and (c) claims arising under consumer protection, privacy, or similar legislation. Apple is not responsible for the investigation, defense, settlement and discharge of any third party claim that this App and/or your possession and use of this App infringe third party's intellectual property rights. You agree to comply with any applicable third party terms when using this App. Apple and Apple's subsidiaries are third party beneficiaries of this EULA, and upon your acceptance of this EULA, Apple will have the right (and will be deemed to have accepted the right) to enforce this EULA against you as a third party beneficiary of this EULA. You hereby represent and warrant that (x) you are not located in a country that is subject to a U.S. Government embargo, or that has been designated by the U.S. Government as a "terrorist supporting" country; and (y) you are not listed on any U.S. Government list of prohibited or restricted parties.

34. **Contact Us.** If you have questions, comments, complaints and/or claims in respect of this EULA, they should be addressed to Ascensia Diabetes Care Holdings AG, Peter Merian-Strasse 90, P.O. Box, 4052 Basel, Switzerland.