

## TERMS OF USE

(Effective as of February 2018)

**IMPORTANT** – THIS IS A LEGAL AGREEMENT BETWEEN YOU (referenced herein with “you” or with “your”) AND PAINTCARE INC. (referenced herein as “PaintCare”). YOU SHOULD READ CAREFULLY THE FOLLOWING TERMS AND CONDITIONS CONTAINED IN THESE TERMS OF USE (referenced herein as this “Agreement”) BECAUSE THEY GOVERN YOUR ACCESS TO AND USE OF THE WEBSITE LOCATED AT *PAINTCARE.ORG*, THE MOBILE VERSION OF THE *PAINTCARE.ORG* SITE, ANY ASSOCIATED PAINTCARE-CONTROLLED SOCIAL MEDIA PAGES, AND THE PAINTCARE INFORMATION, SOFTWARE FUNCTIONALITY, AND/OR MATERIALS LOCATED THEREON OR AVAILALBLE THEREFROM (collectively referenced herein as the “Site(s)"). PAINTCARE IS WILLING TO LICENSE TO YOU THE RIGHT TO USE THE SITE(S) ONLY ON THE CONDITION THAT YOU AGREE TO ALL OF THE TERMS AND CONDITIONS SET FORTH IN THIS AGREEMENT. IF YOU DO NOT AGREE WITH THE TERMS AND CONDITIONS SET FORTH IN THIS AGREEMENT, YOU ARE NOT GRANTED PERMISSION TO USE THE SITE(S) AND YOU ARE HEREBY INSTRUCTED TO IMMEDIATELY DISCONTINUE USE OF THE SITE(S).

1. **License Grant.** Subject to your continued compliance with the express terms and conditions of this Agreement, PaintCare provides to you a revocable, limited, royalty-free, non-exclusive, non-transferable, and non-sublicensable license to access and use the Site(s) on your laptop, computer, mobile device, or other internet compatible device, and make single copies or prints of the content available therefrom for your personal use only. The content layout, formatting, and features of and access privileges for the Site(s) shall be as specified by PaintCare in its sole discretion. You also acknowledge and agree to the following: (i) PaintCare has the right to control and direct the means, manner, and method by which the Site(s) is provided; (ii) PaintCare may, from time to time engage independent contractors, consultants, or subcontractors to aid PaintCare in providing the Site(s) or use thereof; and (iii) PaintCare has the right to provide the Site(s) to others.
2. **Restrictions.** All rights not expressly granted under this Agreement are hereby reserved. Except as expressly authorized on the Site, you may not modify, reproduce, duplicate, copy, download, store, further transmit, disseminate, transfer, disassemble, broadcast, publish, remove or alter any proprietary notices or labels, license, sublicense, sell, mirror, frame, rent, lease, private label, grant a security interest in, create derivative works of, or otherwise exploit the Site(s), or any portion of the Site(s) without PaintCare’s prior written consent. Moreover, you may not (a) use any "deep link," "page scrape," "robot," "spider," or other automatic device, program, script, algorithm, or methodology, or any similar or equivalent manual process, to access, acquire, copy, or monitor any portion of the Site(s) or in any way reproduce or circumvent the navigational structure or presentation of the Site(s) to obtain or attempt to obtain any materials, documents, or information through any means not purposely made available through the Site(s), (b) attempt to gain unauthorized access to any portion or feature of the Site(s) or any other systems or networks connected to the Site(s) or to any PaintCare server or to any of the services offered on or through the Site(s), by hacking, password "mining," or any other illegitimate or prohibited means, (c) probe, scan, or test the vulnerability of the Site(s) or any network connected to the Site(s), nor breach the security or authentication measures on the Site(s) or any network connected to the Site(s), (d) reverse look-up, trace, or seek to trace any information on any other user of or visitor to the Site(s), (e) take any action that imposes an unreasonable or disproportionately large load on the infrastructure of the Site(s) or PaintCare's systems or networks or any systems or networks connected to the Site(s), (f) use any device, software, or routine to interfere with the proper working of the Site(s) or any transaction conducted on the Site(s), or with any other person's use of the Site(s), (g) forge headers, impersonate a person, or otherwise manipulate identifiers in order to disguise your identity or the origin of any message or transmittal you send to PaintCare on or through the Site(s), or (h) use the Site(s) in an unlawful manner.
3. **User Obligations.** You agree to abide by all applicable local, state, national laws and regulations with respect to your use of the Site(s). By downloading, accessing, or using the Site(s), you also represent and warrant that (a) you will at all times provide true, accurate, current, and complete information when submitting information to PaintCare through the Site(s); (b) any information submitted to PaintCare

through the Site(s) does not infringe or violate the intellectual property or proprietary rights of any third party (including, without limitation, patents, copyrights, or trademark rights); and (c) you will at all times comply with the terms and conditions of this Agreement. Any breach of the foregoing representations and warranties entitles PaintCare to immediately revoke your license to use and access the Site(s) and terminate this Agreement and/or seek any and all remedies available at law or equity. You also acknowledge and agree that use of the Internet and access to the Site(s) is solely at your own risk. While PaintCare has endeavored to offer secure and reliable Site(s), you should understand that the confidentiality of any communication or material transmitted to/from the Site(s) over the Internet or other form of global communication network cannot be guaranteed. Accordingly, PaintCare is not responsible for the accuracy, reliability, or security of any information transmitted to or from the Site(s).

4. **Other Terms and Conditions.** Additional notices, terms, and conditions may apply to participation, remittance, or a particular program, service, event, or solution. You agree to abide by such other notices, terms, and conditions, as applicable. If there is a conflict between this Agreement and other notices, terms, and conditions posted to the Site(s), PaintCare shall resolve any conflict in good faith in its sole discretion but the latter terms shall generally control with respect to such participation, remittance, or program, service, event, or solution.
5. **Privacy Policy.** Use of the Site(s) may require the submission of certain personally identifiable information. Please review PaintCare's Privacy Policy found at [www.paintcare.org/privacy-policy/](http://www.paintcare.org/privacy-policy/) for a summary of PaintCare's practices related to the collection and use of personally identifiable information from the Site(s).
6. **Mobile Services.** Site(s) access is available to you via your mobile phone or other mobile (computing) device. Please note that your mobile carrier's normal messaging, data, and other rates and fees will apply to your use of the Site(s). In addition, downloading, installing, or using the Site(s) (or portions thereof) may be prohibited or restricted by your mobile carrier, and not all Site(s) functionality may work with all carriers or devices. Therefore, you are solely responsible for checking with your mobile carrier to determine if the Site(s) is available from your mobile devices, what restrictions, if any, may be applicable to your use of the Site(s), and how much the related wireless services or data charges may cost you. Nevertheless, all use of the Site(s) shall be strictly in accordance with this Agreement.
7. **Proprietary Rights.** This Agreement provides only a limited license to access and use the Site(s) in accordance with the terms of this Agreement. Accordingly, you hereby agree that PaintCare transfers no ownership or intellectual property interest or title in and to the Site(s) or any PaintCare intellectual property to you or anyone else in connection with your use of the Site(s). All text, graphics, user interfaces, visual interfaces, photographs, sounds, artwork, computer code (including html code), programs, software, products, information, and documentation as well as the design, structure, selection, coordination, expression, "look and feel," and arrangement of any content contained on or available through the Site(s) is exclusively owned, controlled, and/or licensed by PaintCare or its licensors. Except as expressly provided herein, PaintCare does not grant any other express or implied right to you or any other person under any applicable laws regarding intellectual or proprietary rights. Accordingly, your unauthorized use of the Site(s) may violate intellectual property or other proprietary rights laws as well as other laws, regulations, and statutes. The Site(s) and its contents are Copyright ©2018 PaintCare Inc. and/or its licensors. All rights reserved. PaintCare also owns a copyright in the contents of the Site(s) as collective work and/or compilation and in the selection, coordination, arrangement, and enhancement of the content of the Site(s). PAINTCARE, the PaintCare logo, and all other marks identifying PaintCare's products, events, programs, or solutions are proprietary trademarks of PaintCare Inc., and any use of such marks, including, without limitation, as domain names, account identifiers, or in connection with any search engine optimization practice(s), without the prior express written permission of PaintCare, is hereby strictly prohibited.
8. **Feedback.** PaintCare welcomes your feedback and suggestions about PaintCare's programs or services or with respect to how to improve the Site(s). By transmitting any suggestions, information, material, or other content (collectively, "feedback") to PaintCare, you represent and warrant that such feedback does not infringe or violate the intellectual property or proprietary rights of any third party (including, without limitation, patents, copyrights, or trademark rights) and that you have all rights necessary to convey to PaintCare and enable PaintCare to use such feedback. In addition, any feedback received through the Site(s) will be deemed to include a royalty-free, perpetual, irrevocable, transferable, non-exclusive right

and license for PaintCare to adopt, publish, reproduce, disseminate, transmit, distribute, copy, use, create derivative works, and display (in whole or in part) worldwide, or act on such feedback without additional approval or consideration, in any form, media, or technology now known or later developed for the full term of any rights that may exist in such content, and you hereby waive any claim to the contrary.

9. **Links To Other Sites And Third-Party Content.** PaintCare may in its sole discretion feature and/or post the advertisements of third parties on the Site(s) and/or links to certain websites or online social networks (or pages) owned and controlled by third parties (collectively, "Third-Party Sites"). These Third-Party Sites have not necessarily been reviewed by PaintCare and are owned, controlled and/or maintained solely by third parties over whom PaintCare exercises no control. In addition, PaintCare may in its sole discretion provide third-party content on the Site(s) or through social media networks (or pages) owned and controlled by third parties ("Third-Party Content"). Such Third-Party Content has not necessarily been reviewed by PaintCare and is created, edited, published, maintained and transmitted by third parties over whom PaintCare has no control. Your correspondence or any other dealings with third parties found on the Site(s) is solely between you and such third party. Accordingly, PaintCare hereby expressly disclaims and shall not have any liability or responsibility for (a) any Third-Party Content appearing on the Site(s), or (b) the content, the materials, the accuracy of the information, and/or the quality of the products or services provided by, available through, or advertised on Third-Party Sites accessible through links on the Site(s). Moreover, the Third-Party Sites and Third-Party Content do not imply an endorsement with respect to any third party, any content, any website, network, or page, or the products or services provided by any third party.
10. **Disclaimer.** THE SITE(S) IS PROVIDED ON AN "AS-IS" BASIS AND MAY INCLUDE ERRORS, OMISSIONS, OR OTHER INACCURACIES. PAINTCARE MAKES NO REPRESENTATIONS OR WARRANTIES ABOUT THE SITE(S) FOR ANY PURPOSE, AND HEREBY EXPRESSLY DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT OR ANY OTHER IMPLIED WARRANTY UNDER THE UNIFORM COMPUTER INFORMATION TRANSACTIONS ACT AS ENACTED BY ANY STATE. PAINTCARE ALSO MAKES NO REPRESENTATIONS OR WARRANTIES THAT THE SITE(S) WILL OPERATE ERROR-FREE, UNINTERRUPTED, OR IN A MANNER THAT WILL MEET YOUR REQUIREMENTS AND/OR NEEDS. THEREFORE, YOU ASSUME THE ENTIRE RISK REGARDING THE QUALITY AND/OR PERFORMANCE OF THE SITE(S).
11. **Limitation Of Liability.** You expressly absolve and release PaintCare from any claim of harm resulting from a cause beyond PaintCare's control, including, but not limited to, failure of electronic or mechanical equipment or communication lines, telephone or other connection problems, computer viruses, unauthorized access, theft, operator errors, severe weather, earthquakes, or natural disasters, strikes, or other labor problems, wars, or governmental restrictions. MOREOVER, AND TO THE MAXIMUM EXTENT PERMITTED BY LAW, IN NO EVENT SHALL PAINTCARE BE LIABLE FOR ANY INDIRECT, PUNITIVE, INCIDENTAL, SPECIAL, OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR IN ANY WAY CONNECTED WITH THE USE OF THE SITE(S), ANY COMMUNICATIONS OR INTERACTIONS WITH THIRD PARTIES MADE BY YOUR UTILIZING THE SITE(S), WITH THE DELAY OR INABILITY TO USE THE SITE(S), OR FOR ANY INFORMATION, SOFTWARE FUNCTIONALITY, AND MATERIALS AVAILABLE THROUGH THE SITE(S), WHETHER BASED IN CONTRACT, TORT, STRICT LIABILITY, OR OTHERWISE, AND EVEN IF PAINTCARE HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN ADDITION, TOTAL LIABILITY OF PAINTCARE FOR ANY REASON WHATSOEVER RELATED TO USE OF THESE SITE(S) SHALL NOT EXCEED FIVE HUNDRED U.S. DOLLARS (\$500).
12. **Governing Law.** This Agreement has been made in and will be construed and enforced in accordance with the laws of the District of Columbia as applied to agreements entered into and completely performed in the District of Columbia. You agree to the personal jurisdiction by and venue in the District of Columbia and waive any objection to such jurisdiction or venue. Any claim you might have against PaintCare pursuant to this Agreement must be brought within one (1) year after the cause of action arises, or such claim or cause of action is barred. In any legal proceeding brought by PaintCare, PaintCare shall have the right to seek and be awarded all reasonable attorneys' fees and costs in addition to any other

relief, at law or in equity, to which PaintCare may be entitled.

13. **Security.** Any actual or attempted use of the Site(s) by you in violation of this Agreement may result in criminal and/or civil prosecution, including, without limitation, punishment under the Computer Fraud and Abuse Act of 1986 under U.S. federal law. PaintCare reserves the right in its sole discretion to review, monitor, and/or record any information relating to your use of the Site(s) ("User Information") without any prior notice to or permission from you, including, without limitation, by archiving content and/or communications submitted to and/or sent by you through the Site(s). PaintCare may share any User Information PaintCare obtains from you with any law enforcement organization in connection with any investigation or prosecution of possible criminal or unlawful activity. PaintCare will also disclose User Information as required by any court order and/or subpoena. In addition, PaintCare hereby reserves the right in its sole direction to at any time and without notice to modify, suspend, terminate, and/or interrupt operation of or access to the Site(s), or any portion thereof, in order to protect the Site(s), PaintCare intellectual property, PaintCare, or the business interests of PaintCare and/or its members and affiliates.
14. **Injunctive Relief.** You acknowledge that any breach, threatened or actual, of this Agreement, including, without limitation, violations or infringement of PaintCare's intellectual property or proprietary rights, may cause irreparable injury to PaintCare, whereby such injury would not be quantifiable in monetary damages, and PaintCare would not have an adequate remedy at law. In the event of such injury or potential for such injury, you hereby agree that PaintCare shall be entitled, in addition to other available remedies, to seek and be awarded an injunction or other appropriate equitable relief from a court of competent jurisdiction regarding any breach, threatened or actual, of your obligations under any provision of this Agreement.
15. **Term And Termination.** This Agreement will take effect at the time you click "I ACCEPT", download the Site(s), or begin using the Site(s), whichever is earliest. This Agreement will terminate automatically if (i) you fail to comply with its terms and conditions; or (ii) cease all use of the Site(s). Termination will be effective without prior notice. In addition, PaintCare may in its sole discretion terminate this Agreement upon notice to you for any or no reason. Upon termination of this Agreement, any and all right(s) to use the Site(s) shall immediately cease and you must promptly return to PaintCare (at the address listed below) or destroy all tangible embodiments of the Site(s) in your possession or control. Sections 2, 7, and 8 - 17 will survive the termination of this Agreement.
16. **Waiver & Severability.** PaintCare's failure to insist on upon strict performance of any of the terms and conditions of this Agreement by you will not operate as a waiver of any subsequent or other default or failure of performance. If any part of this Agreement is determined by a court of competent jurisdiction to be invalid or unenforceable pursuant to applicable law or court order including, but not limited to, the warranty disclaimers and the liability limitations set forth above, then the invalid or unenforceable provision will be deemed superseded by a valid, enforceable provision(s) that most clearly matches the intent of the original provision and the remainder of this Agreement shall continue in effect.
17. **Miscellaneous.** You hereby agree that (a) this Agreement operates in addition to any terms or conditions imposed or required by Apple Inc. or any other digital download platform, your internet service provider, or your internet browser from which you access or download the Site(s) ("Internet Provider Terms"); and (b) the terms of this Agreement supplement and do not alter or amend any such Internet Provider Terms. No joint venture, partnership, employment, or agency relationship exists between you and PaintCare as a result of this Agreement or your utilization of the Site(s). Headings are for convenience only. This Agreement and PaintCare's Privacy Policy found at [www.paintcare.org/privacy-policy/](http://www.paintcare.org/privacy-policy/) represent the entire agreement between you and PaintCare with respect to use of the Site(s), and hereby supersede all prior and/or contemporaneous communications and proposals, whether electronic, oral, or written between you and PaintCare. You may not assign or transfer any rights under this Agreement without the prior express written consent of PaintCare, which may be withheld in PaintCare's sole discretion. **PaintCare may update these terms and conditions at any time by posting a revised version of this Agreement and may do so without advance notice to you. Accordingly, please review the terms and conditions found at this location on a periodic basis. Each time you access the Site(s), you agree to be bound by this Agreement in effect at the time you access the Site(s). If you do not agree to the revised terms, do not use the Site(s). By accessing or otherwise using the Site(s), you acknowledge that you have read, understood, and agree to be bound by this Agreement.**