

SOFTGAFF TERMS AND CONDITIONS

We are Softgaff International Pty Ltd ACN 166 635 150 (“**we**”, “**our**”, “**us**”).

If you are visiting our website:

- (a) thank you for visiting our website, which describes some of our products which you can access and purchase from us; and
- (b) before you proceed further, you must acknowledge and agree to the following terms. By checking the “I Agree” box below, you confirm that you agree as follows.

If you are currently accessing our SoftGaff Acculog App (“**App**”), then these terms govern the legal relationship between us in relation to the goods or services we will provide to you.

1 THIS AGREEMENT

- 1.1 This is a legally binding agreement between you and us which will continue to apply while you are logged into our website or are using the App and will apply to any services or products we supply to you unless it is terminated for whatever reason.
- 1.2 If you are visiting our website or using the App and disagree with any of these terms and conditions or do not intend to be bound by any of these terms and conditions, you must exit our website and cease using the App immediately.

2 WEBSITE ACCESS AND APP USE

- 2.1 If you are visiting our website or using the App, then in return for your compliance with these terms and conditions, we will provide you with access to the website and its materials and the App and its materials, which are offered in the English language only.
- 2.2 There is no fee payable to read information about the services available on our website but we do charge a fee for products you can order from our website, for access to the App and for access to certain services via the App.
- 2.3 While we have taken all due care, we do not guarantee that our website or the materials on it, or the App or the materials on it, will be free from viruses or that access to the website or App will be uninterrupted.
- 2.4 We may terminate your access to our website or the App at any time without notice and for any reason. All restrictions, licences granted by you and all disclaimers and limitations of our liability in these terms will survive termination, although you will no longer be authorised to access the website or the App.
- 2.5 Any communication or material that you transmit to or post on our website or the App by electronic mail or via any of the sharing or posting functions on the website or in the App or otherwise, including any data, questions, comments, suggestions or anything else, will be treated as non-confidential and non-proprietary information, and you now grant us a perpetual, irrevocable and royalty-free licence to use any such communication for any purpose we see fit.
- 2.6 You will not, nor attempt to:
 - (a) provide, publish, post or create a link to any page or part of our website or the App without our express written permission;
 - (b) link directly to any page of our website or the App other than via normal navigation of our website or normal usage of the App;
 - (c) post or transmit to our website or the App any unlawful, threatening, libellous, defamatory, obscene, dangerous, inflammatory, pornographic or profane material,

any material that could constitute or encourage conduct that will be considered a criminal offence, give rise to civil liability or would otherwise violate any laws, nor any materials, malware, spyware, computer viruses or other materials which may adversely affect the security or content of the website or the App;

- (d) violate the security or any security measures of our website or the App nor that of any of our systems and networks;
- (e) access any data on or from our website or the App which is not intended for you;
- (f) probe, scan or test the vulnerability of our website or the App or any of our systems or networks;
- (g) interfere with service to any other user of our website or the App; nor
- (h) use any device, software or routine to interfere or attempt to interfere with the proper working of, any activity being conducted on or via, our website or the App.

2.7 If you are allocated any login details or other user codes or passwords for your identification or access to our website, App or services, you must keep them private and confidential and must not allow anyone else to log in to our website, App or services using those details or codes.

2.8 You agree that:

- (a) the resources on our website and the App are provided for your information only and do not constitute professional advice of any sort;
- (b) our website and the App might not at any given time be actively monitored whether during or outside business hours, and the information contained on the website and within the App is presented "as is" and has not in any way been tailored to suit your own personal circumstances; and
- (c) that we have absolute discretion to edit, decline to post or remove in whole or in part any information or material you provide or post to our website or via the App.

2.9 Material on our website or in the App may contain general information about us and our products and services, or those of other parties with whom we deal or do business. Unless expressly stated otherwise, this information:

- (a) does not constitute an offer or inducement to enter into any legally binding contract;
- (b) other than these terms and conditions set out in this document, does not form part of the terms and conditions for any of our products or services or those of any other parties referred to on our website or in the App; and
- (c) does not mean that we are in any way affiliated with any other parties or businesses referred to (if any).

2.10 While we have made every effort to ensure that the information on and available from our website or the App is free from error, we do not warrant the accuracy, adequacy or completeness of that information.

2.11 As a convenience, our website or the App may from time to time include links to other websites and/or materials, which are beyond our control ("**Other Sites**"). We do not review or monitor any websites linked to our website or to any Other Sites and we are not responsible for content on any websites outside our website or the App.

2.12 If you access any Other Sites, you do so at your sole risk and subject to the terms and conditions of those sites.

2.13 The inclusion on our website or the App of any links to Other Sites does not imply any endorsement by us of any of the Other Sites or the content contained on those sites. We do

not warrant the safety or accuracy of the content on any Other Sites and will not be liable for any adverse consequences to you whatsoever arising out of your access to or use of any Other Sites.

3 PRIVACY AND USE OF PERSONAL INFORMATION

- 3.1 Without limiting the generality of clause 2.5, you acknowledge that via the website and/or via the App we will from time to time collect information about you and other parties which might constitute personal information within the meaning of the *Privacy Act 1988* (Cth) or the collection and use of which might otherwise be regulated other applicable privacy or data protection legislation. While we will usually only use and disclose such information for the purposes of complying with this Agreement, providing goods or services to you or providing support for the use of those goods or services where necessary, we may also use and disclose those details to our staff, contractors and service partners, for business or marketing purposes.
- 3.2 We may also collect information about other parties from you if you provide such information to us whether via the website or via use of the App. You warrant that any information you provide to us, about or which may identify yourself or anyone else, will be at the time you provide it accurate and complete and that our use of it as anticipated in clause 3.1 will not breach the rights of any party.
- 3.3 You consent to us using and disclosing for the purposes set out in clause 3.1 any information referred to in clauses 3.1 or 3.2.

4 PURCHASE AND DELIVERY OF THE APP

- 4.1 You may purchase and download the App via iTunes, Google Play or such other platform (**Method**) as may be notified from time to time for payment of the purchase price ("**Fee**").
- 4.2 The Fee payable will set out as per the Method at the time of purchase.
- 4.3 You acknowledge that the App is sold separately from the Accumat and/or any other product. Accumat may be purchased separately through our website.
- 4.4 Payment of the Fee allows you to download and use the App in accordance with the information on the website and these terms and conditions.
- 4.5 Unless you have purchased an unlimited use version of the App, upon downloading the App you will be entitled to make 100 entries into the App. You must pay to us an additional fee ("**Additional Fee**") to make entries above the 100 limit. The Additional Fee will be as set out in the App or on our website or from time to time.
- 4.6 The Fee and Additional Fee may change at any time and from time to time at our absolute discretion.
- 4.7 You are responsible for downloading any software and updates necessary to support the App.
- 4.8 We retain the right to discontinue the App and services to the App and you agree that doing so will not be a breach of this Agreement and that there will be no sum or compensation of any type payable to you as a result of or arising out of our doing so.
- 4.9 For the avoidance of doubt, legal ownership in the App remains with us and we license you to use the App until this Agreement or your access to the App is terminated (whichever occurs first).
- 4.10 All risks associated with downloading and using the App and/or the use of this website remains with you.

5 PURCHASE AND DELIVERY OF SERVICES AND PRODUCTS

- 5.1 Our services and products will be provided as detailed on our website and in accordance with these terms and conditions.
- 5.2 If we are required to make changes to our services or products in order to comply with any government regulations or safety standards, we may do so without amending this Agreement so long as such changes do not alter the intent of this Agreement or impact or change the nature of the services. If the changes do materially affect the nature or quality of the services, we will notify you and an amendment of this Agreement may be necessary.
- 5.3 The Softgaff Delivery and Returns Policy detailed on our website (as amended from time to time) apply to the provision of any products and/or services by us to you.

6 PAYMENT OF FEES

- 6.1 To access the App and/or services and products on our website you agree to pay the Fee, Additional Service Fee and/or the relevant purchase price for our products and services (as applicable) as set out on our website.
- 6.2 Unless we notify you otherwise on our website you may pay the Fee, Additional Fee or the purchase price for our products and services available on our website (as applicable) via PayPal or credit card.
- 6.3 Should we incur additional costs over and above our usual costs of providing our services to you as a result of inaccurate or incomplete information being given by you to us, or in any other way caused by you, we shall be entitled to invoice you for these additional sums setting out the reason for same, and you agree to pay that in addition to any other fees that are or were paid or payable.
- 6.4 If you fail to pay fees payable for services or products, those services and/or products will not be available to you.

7 INTELLECTUAL PROPERTY

- 7.1 Without limiting the generality of anything else contained in this Agreement:
- (a) title in any documents or information provided by you shall remain with you;
 - (b) you license us to use of such of your intellectual property provided by you as we deem necessary for the provision of our goods and services to you;
 - (c) title in any documents or information we provide to you shall, unless otherwise agreed in writing between us, remain with us, subject only to your right to use the documents and information for the purposes of utilising the goods or services we provide to you;
 - (d) you warrant that any information or documents provided by you to us (or the provision of any of those to us and our use of those pursuant to this Agreement) will not infringe the intellectual property or other rights of any third party. Without limiting any other indemnity granted under this Agreement, you agree to indemnify us against any costs, damages or expenses finally awarded by a Court of law and all reasonable legal fees or other claims incurred in defending any such claim of infringement.
- 7.2 You will not attempt to copy, alter or reproduce in any form, whether in hard copy or electronically through any medium whatsoever, any part of our website or the App nor any of our products or materials we provide to you as part of our services, including, without limitation, any text, images, audio or video content or other data contained on our website or

the App, without express written permission from us or unless expressly authorised by these terms and conditions to do so.

- 7.3 Where you are specifically invited on our website, the App or by our services to do so, you may download and/or copy materials from our website, the App or that we provide to or make available to you for your own personal non-commercial use, but you must not distribute, modify, transmit, reuse, repost, or make use of any such materials in any way whatsoever for any other purpose without our express written permission.
- 7.4 All copyrights, trademark rights and other rights in or arising out of our website, the App, products and materials, are either owned by or under licence to us. We reserve all of those rights.

8 WARRANTIES, LIABILITY AND INDEMNITIES

- 8.1 Our products and services will be provided by us using our usual standards, skill and reasonable care. If, during the course of providing our products or services, we make use of the goods or services of a third party, we make no warranty, guarantee or any other statement as to their quality, fitness for purpose or otherwise. If possible, we will use reasonable endeavours to assign to you the benefit of any warranty, guarantee or indemnity given by the party supplying such goods or services to us.
- 8.2 Should any damages suffered by you arise as a result of faulty, incorrect, incomplete or improperly provided information or documentation provided by you, there shall be no liability whatsoever on our part.
- 8.3 There shall be no service warranties except for those provided in this Agreement. All other warranties, including any implied warranties for fitness for use or merchantability or any other duties required under common law are excluded to the extent permitted by law. We will not be liable for any special, indirect or consequential damages or damages resulting in, any loss of profit, loss of goodwill, loss of business opportunity, loss of revenue or any other damage, costs, expenses or other claims even if such claims or damages arose as a result of our negligence or under any other tortious action while providing the products or services to you or as a result of your use of our products or services.
- 8.4 We do not warrant and are not liable for any actions, omissions or information provided by any other person using our website, the App or our other products or services.
- 8.5 We do not warrant that the materials on our website or in the App will be suitable for any particular purpose. Access to the materials is provided on a strictly "as is" basis.
- 8.6 We do not warrant that your use of our website or the App by itself or any product or service we provide to you will be fit for any specific purposes other than, in the case of our products and services, those we tell you at the time of provision of those products and services to you.
- 8.7 In consideration for being given access to our website and/or the App, you release and forever discharge us, our employees, servants and agents and each of them from all and any liability to you of any nature whatsoever in respect of any losses, damages (whether direct, indirect, consequential or otherwise), liabilities, claims or expenses whatsoever arising directly or indirectly from use by you or any other person of our website or the App or any of the links provided on the website or in the App or reliance by you or any person upon information contained in or downloaded from our website or contained in the App.
- 8.8 In further consideration for our supply of our goods and/or services to you (including making goods available for your collection as the case may be), you further release and forever discharge us, our employees, servants and agents and each of them from any claim or demand of any nature whatsoever associated with or arising out of any of (or any use of or

reliance upon) our goods or services (other than non-delivery due to our wilful default) that you have, had or but for this clause would have had against any of the parties so released.

- 8.9 Subject to our compliance with the terms of this Agreement, you will be liable for and indemnify us, our employees, servants and agents and each of them jointly and severally against any loss, damage, expense or cost of any nature (including, without limitation, full solicitor and client legal costs on an indemnity basis) that any of them incurs or may incur (whether directly, indirectly or consequentially or otherwise) arising out of your use of our website or any of its contents or from any breach by you of these terms and conditions.
- 8.10 Provisions of the *Australian Consumer Law* and other statutes from time to time in force in Australia may imply warranties or conditions or impose obligations upon us which cannot be excluded or modified. This Agreement must be read and interpreted subject to such statutory provisions or any other similar provisions.
- 8.11 Our liability and that of our employees, servants or agents for any breach of any condition or warranty implied by law or otherwise, and which cannot be excluded, is limited to the extent possible, at our option, to:
- (a) the supply of the relevant goods or services again; or
 - (b) payment of the cost of having the goods or services supplied again or repaired.

9 TERMINATION OF AGREEMENT

- 9.1 Subject to the terms of this Agreement, either party may terminate this agreement at any time by giving not less two weeks' written notice to the other party.
- 9.2 Upon termination of this Agreement, you immediately must cease using the App or accessing our products and services for which ongoing access fees are required to be paid.

10 GENERAL MATTERS

- 10.1 The headings set out in this Agreement are for convenience only and shall not in any way affect the interpretation of this Agreement.
- 10.2 The terms of this Agreement may only be amended by a further written agreement signed by the parties.
- 10.3 All notices required by this Agreement must be made in writing and shall be in the English language and be sent to the email address of the recipient. All notices must be sent to us at info@softgaff.com or as otherwise noted on our website. You acknowledge that your email address for the purposes of notices will be such email address as supplied by you to us at the time of purchase of the App or our products and/or services (as applicable).
- 10.4 Notices will be effective when the email becomes capable of being retrieved by the recipient.
- 10.5 If any provision of this Agreement is determined to be void, illegal or unenforceable by any law or regulation of any government or by any court, such provision will be severed from the Agreement and the remaining parts, terms and provisions will remain enforceable.
- 10.6 The parties agree and acknowledge that we are an independent contractor and that nothing in this Agreement is intended to create a relationship of master and servant, employer and employee, partnership or joint venture between you and us.
- 10.7 This Agreement and your relationship with us pursuant to this Agreement are governed by the laws of Queensland, Australia, and shall not be subject to or governed by *The United Nations Convention on Contracts for the International Sale of Goods* or any other similar or replacement Convention.

- 10.8 You unconditionally and irrevocably agree to submit to the non-exclusive jurisdiction of the courts of Queensland for the purpose of resolving any disputes pursuant to this Agreement.
- 10.9 This Agreement constitutes the entire agreement of the parties and supersedes all prior understandings, negotiations, agreements, written or oral, express or implied.
- 10.10 No waiver or breach of any term of this Agreement shall constitute a precedent or a waiver of any succeeding or other breach of the same.
- 10.11 The next time that you log into our website, the App or seek our services or products, you may be asked to agree to the terms of our then current terms and conditions. We do not warrant that on any such occasion those terms and conditions will be the same as set out in this document.