

NOSTRADATA TERMS AND CONDITIONS

AGREEMENT AND CONSENT

These Terms and Conditions constitute a legal agreement ("**Agreement**") between you and NostraData Pty Ltd ACN 139 103 656 ("**NostraData**") that govern the terms upon which:

- a. you are permitted to access and use NostraData's website published at www.nostradata.com.au ("**Site**") and any information, text, graphics, or other materials published on the Site ("**Content**");
- b. NostraData provides services to the Recipient under the Services Agreement, including the provision of Reports to the Recipient (as defined in the attached Terms and Conditions) ("**Services**");
- c. the terms upon which the NostraData DET software made available through the Site ("**Software**") is licensed to you by NostraData; and
- d. you grant NostraData the right to access to your Files and System and to Transmit Raw Data (as defined in the attached Terms and Conditions) for the purpose of NostraData providing the Services.

By clicking on the **accept** button, **signing** a copy of this LMG Members Consent, **installing**, **copying** or otherwise **using** the Software, using the Site, you agree to be bound by the terms of this Agreement. If you do not agree to the terms of this Agreement, do not install or use the Software or the Site, and return all unused copies of the Software in your possession to NostraData. The person signing this LMG Members Consent or clicking the accept button warrants to NostraData that they are authorised to sign or agree to this the terms of the Agreement on behalf of the Customer.

TERMS AND CONDITIONS

1 DEFINITIONS

In this Agreement, unless the subject or the context otherwise requires, the terms defined in the attached Customer Registration Form have a corresponding meaning and:

"**Business**" means your business as carried on at the Location Address;

"**Feedback**" means your feedback, comments and suggestions for improvements to the Site, Services, Reports or Content including where you post content to the Site and/or communicate with NostraData or other users of the Site or the Software via forums on the Site;

"**Files**" has the meaning set out in clause 5.1;

"**Intellectual Property Rights**" means all present and future intellectual and industrial property rights conferred by statute, at civil, common law or in equity and wherever existing, including patents, designs, copyright, rights and circuit layouts, database rights, trade marks, know-how, domain names, brand names, inventions, product names, trade secrets and any other rights subsisting in the results of intellectual effort in any field, whether or not registered or capable of registration and including any application or right to apply for registration and any renewal or extension of rights;

"**Licence**" means the licence referred to in clause **Error! Reference source not found.**;

"**Output Data**" means the Raw Data that is Transmitted to or imported by NostraData for the purpose of providing the Services or creating reports and derivative works;

"**Personal Information**" has the meaning set out in section 6(1) of the Privacy Act;

"**Privacy Act**" means the Privacy Act 1988 (Cth), as amended or replaced from time to time and including all regulations and statutory instruments made under that Act;

"**Recipient**" means the person who is party to the Services Agreement with NostraData in respect of the Services, being either you or your Company Sponsor, or both;

"**Reports**" means the group analysis, benchmarking and product performance metrics and product and sales performance reports in relation to the Business prepared by NostraData for the Recipient;

"**Services Agreement**" means an agreement between NostraData and the Recipient in relation to the Services, the fee payable to NostraData for providing the Services and the Licence;

"**Transmit**" means to upload, submit, link, transmit, transfer or make available (in a manner approved by NostraData in its discretion) information and data to NostraData pursuant to this Agreement and "**Transmission**" has a corresponding meaning;

"**Raw Data**" has the meaning set out in clause 7.1; and

"**System**" means the computers, POS Software, dispensary software or other point of sale software used or operated in connection with your Business from time to time, which at the date of this Agreement means the dispensary software and the computers at the Location Address.

2 LICENCE

- 2.1 In consideration of the Services Agreement, NostraData grants you a licence of the Software ("**Licence**") on the terms and conditions of this Agreement.
- 2.2 The Licence is subject to:
- you accepting and agreeing to be bound by the terms of this Agreement; and
 - you or your Company Sponsor entering into a Services Agreement with NostraData.
- 2.3 NostraData warrants that it has the authority to enter into this Agreement with you.
- 2.4 The Licence is limited to use on your System or (if applicable) use on your POS Provider's computer system, unless you have obtained the prior written consent of NostraData to use the Software on alternative equipment. Such consent shall not be unreasonably withheld.
- 2.5 The Licence may only be transferred or assigned by you:
- with the prior written consent of NostraData; and
 - only in the event of transfer of your business to a third party.

3 INSTALLATION OF THE SOFTWARE AND UPDATES OR NEW RELEASES

- 3.1 You agree to install or that NostraData may install the Software either directly on your System and / or directly on your POS Provider's computer system (at NostraData's discretion) for the purpose of NostraData providing the Services.
- 3.2 NostraData may notify you and provide updates or new releases for the Software for the purposes of improving performance or resolving issues. You consent to NostraData installing such updates or new releases on your System at NostraData's discretion.

4 FEES FOR SERVICE

- 4.1 If a Company Sponsor is specified in the Customer Registration Form, NostraData will provide the Service:
- subject to the continuation of a Services Agreement with your Company Sponsor; and
 - on behalf of your Company Sponsor at no cost to you.
- 4.2 If you have entered into a Services Agreement with NostraData, NostraData offers the Service to you subject to your compliance with and payment of fees in accordance with the Services Agreement.
- 4.3 NostraData reserves the right, at any time, to change or impose fees for your access to and use of the Services upon giving 30 days notice to you. Such notified changes are binding on you unless you terminate this Agreement by written notice to NostraData within that 30 day notice period. NostraData will not impose fees for the use of the free sections of the Site, Content and the Software installed on your system.

5 CONSENT TO ACCESS YOUR FILES AND SYSTEM

- 5.1 Subject to NostraData complying with its obligations under clause 10, you grant NostraData the right to access your System and files that are related to POS Software and/or any other folder which you or your POS Provider Transmit to NostraData ("**Files**").

6 YOUR FILES

- 6.1 Nothing in this Agreement affects your ownership of your Files and you are solely responsible for the content of your Files. You warrant that you own the Files and/or have all necessary licenses, rights, consents and permissions and approvals to grant the rights to NostraData as set out in clauses 5.1 and 7.1 of this Agreement.
- 6.2 You acknowledge and agree that NostraData does not have any obligation to monitor or check the accuracy of your Files or any Raw Data that is Transmitted to NostraData.

7 ACCESS TO YOUR FILES AND USE OF YOUR RAW DATA

- 7.1 You grant NostraData and its employees, agents and contractors the right to access, retrieve, Transmit, use, store, copy, modify and create derivative works based on information and data in your Files that relates to:
- the quantity and value of sales of goods and services by your Business;
 - your customers, including general demographic information such as the customer's age and postcode, but specifically excluding the customer's name, credit card details,
- and such other information and data you allow NostraData to access and use, or that you do not object to NostraData accessing and using within 30 days of you receiving a written request from NostraData for such access and use ("**Raw Data**").

8 YOUR RESPONSIBILITIES

- 8.1 You must not modify, rent, lease, loan, sell, distribute or create derivative works based on the Reports or Content (either in whole or in part) without the prior written agreement of NostraData (at its sole discretion).
- 8.2 You acknowledge and agree that it is your responsibility to maintain, archive, backup, support and protect your System at your own cost and expense.
- 8.3 From time to time, NostraData will conduct audits on the information that it receives from you. This requires a NostraData representative to contact you and check information on your System and / or POS Software, including sales data. You agree to promptly assist NostraData, act in accordance with all reasonable requests from NostraData and provide the information requested by NostraData in connection with such audits.
- 8.4 This Agreement does not grant you any rights in relation to any third party software products required in conjunction with the Software, for example POS Software. You are responsible for obtaining the necessary licences for such third party software products as you may require. The Licence does not include licences to any third party database server software or any hardware that is required to correctly operate the Software.

9 OUR RESPONSIBILITIES

- 9.1 NostraData will endeavour to ensure that the Software installed on your System:
 - a. is reasonably free from errors;
 - b. is free from malicious code;
 - c. will not harm your computer or unduly interfere with its performance.
- 9.2 NostraData endeavours to ensure that the information in the Reports is accurate, however you acknowledge and agree that:
 - a. NostraData is not responsible or liable for any inaccuracies in the Reports or the Services to the extent that such inaccuracies are caused directly or indirectly by the Raw Data not being true, complete and accurate or by information provided by third parties (including but not limited to your Corporate Sponsor) not being true, complete or accurate;
 - b. NostraData is not liable or responsible for any Feedback, directions, recommendations or advice (including but not limited to directions, recommendations or advice made or given by your Company Sponsor) in relation to the Site, Reports or the Service; and
 - c. the information in the Reports is only a guide and you must not rely upon it as the only source of information about your Business,

and you agree to forever release and discharge NostraData from any such liability.

10 PRIVACY AND CONFIDENTIALITY

NostraData Pty Ltd ACN 139 103 656 (we, us, our) is committed to protecting your privacy. We are bound by the Privacy Act 1988 (Cth) (Privacy Act) and, in particular, by the Australian Privacy Principles (APPs), which set out the standards required by law for collecting, managing and disclosing your personal information. This Privacy Policy explains the way in which we handle your personal information and sensitive information, and the ways in which you can contact us regarding the personal information that we hold about you.

"Personal information" is information or opinion (in recorded form or otherwise) about an identified, or reasonably identifiable, individual.

"Sensitive information" is a type of personal information that is given more protection. It includes health, genetic and biometric information, as well as information about professional or trade association membership.

- 10.1 NostraData collects data about the purchases of customers of our member pharmacies and reports that information to our member pharmacies and other clients. This information helps our clients to understand the markets in which they operate. Although we collect a lot of information about individuals, and in particular, about the medications and other items that customers purchase from pharmacies, we go to great lengths to ensure that the information that we collect is both deidentified, and not reidentifiable. Because we only collect deidentified, non-reidentifiable information, our clients cannot use the information we provide to identify anyone either.
- 10.2 As stated above, we collect almost no personal information. That is, while we collect a lot of information about a lot of individuals, we collect that information in a form that is both deidentified and non-reidentifiable. The only personal

information we collect is information about our business associates to enable them to use our products and us to have a relationship with them. We collect:

- a. the names of staff members of our clients, to enable those staff members to login to our systems, and
- b. the names and other relevant details of our business contacts.

10.3 We collect, hold, use and disclose the personal information that we collect about you:

- a. to contact you;
- b. to deliver products and services to you
- c. to administer and manage transactions
- d. to maintain our business records
- e. to provide you with information about products and services that may be of interest to you
- f. to conduct market research
- g. to obtain services that assist us to run our business, including obtaining professional advice
- h. for any purpose required or permitted by law
- i. for any purpose you would otherwise reasonably expect
- j. for any purpose disclosed to you and to which you have consented, and
- k. otherwise to run our business.

10.4 We may disclose your personal information to third parties, such as our related companies, business partners, our professional advisers (such as lawyers, accountants or auditors) and our external service providers (such as mailing houses, debt collectors and information technology service providers). We do not routinely disclose personal information overseas.

10.5 We hold personal information in both paper-based and electronic files. We seek to ensure that your personal information is protected from:

- a. misuse, interference and loss; and
- b. unauthorised access, modification and disclosure.

The personal information that we hold about you is treated as confidential and only accessed when necessary. When we no longer require your personal information, including when we are no longer required by law to keep records relating to you, we destroy or de-identify it.

10.6 You may request access to the personal information that we hold about you by contacting us on the contact details set out below. We will deal with your request for access promptly. If we refuse access to your personal information, we will provide you with a written notice which sets out the reasons for our refusal. We may recover the reasonable costs (if any) that we incur in responding to a request for access to your personal information.

10.7 We seek to ensure that the personal information that we collect is accurate, up-to-date and complete and, in the case of our use or disclosure of that information, relevant as well. If you believe that any information that we hold about you is inaccurate, out of date, incomplete, irrelevant or misleading, you can ask us to correct your personal information accordingly. You may make such a request by contacting us on the contact details set out below. We will deal with your request to correct your personal information promptly. We are not obliged to correct your personal information. If we refuse to correct any of your personal information following your request, we will give you a written notice which sets out the reasons for our refusal.

10.8 We may use your personal information to provide you with information about products and services which we think may be of interest to you. You may opt out of receiving marketing communications from us at any time if you no longer wish to receive this information. In order to do so, simply contact us on the contact details set out below and request that we no longer send marketing communications to you.

10.9 If you have any questions, or if you believe that we have not complied with our obligations under the Privacy Act (and, in particular, the APPs), or if you believe that the personal information that we hold about you has been compromised in any way, please contact us on the contact details set out below. We will respond to any question or complaint as soon as

possible. If you are dissatisfied with our response, you may direct your complaint to the Office of the Australian Information Commissioner by email at enquiries@oaic.gov.au or by telephone on 1300 363 992.

10.10 To contact us about any issue in this privacy policy, or about the way in which we handle your personal information, please contact us:

Privacy Officer
NostraData
Suite 15, 13-25 Church Street
Hawthorn VIC 3122, Australia
T: +61 3 9853 9943
E: privacy@nostradata.com.au

10.11 We may make change to this Privacy Policy from time to time without notice to you. A current copy of our Privacy Policy is available on our website at www.nostradata.com.au/Public/Home/Privacy. Our Privacy Policy was last updated on 12 March 2014.

11 INTELLECTUAL PROPERTY RIGHTS

11.1 NostraData grants you a limited, non-exclusive, non-transferable, revocable licence to use the Site and the Content and (if you are the Recipient) Reports and Services, subject to the conditions in this Agreement and, as applicable, the Services Agreement.

11.2 All right, title, and interest in all Intellectual Property Rights (collectively “**Rights**”) in and to the Software, the Site, Content, Output Data, Reports and any works created by NostraData that are derived from or based on Raw Data or your Feedback vest in NostraData immediately upon creation and will remain the exclusive property of NostraData. To the extent that any Rights vest in you, by this Agreement you immediately assign all such Rights to NostraData and agree to do all things reasonably necessary to confirm or register such Rights as being the property of NostraData.

11.3 Except as expressly permitted in this Agreement, you must not reproduce, modify or prepare derivative works based upon, distribute, sell, transfer, publish, Transmit, or otherwise use the Site, Content, Output Data or Reports. You must not copy or modify the HTML or other code used to generate web pages on the Site.

11.4 Subject to NostraData complying with its obligations under clause 10, to the extent that the Output Data includes Raw Data, you grant NostraData a perpetual, irrevocable, transferrable, royalty-free licence to use, store, copy, modify, sell, transfer, publish, communicate and create derivative works based on such Raw Data.

12 GENERAL PROHIBITIONS

12.1 You agree not to do any of the following:

- a. Transmit or make available for Transmission by NostraData any Files, Raw Data, data, text, graphics, or material that:
 - i. is false or misleading;
 - ii. is defamatory;
 - iii. does not comply with your privacy policy;
 - iv. is obscene, pornographic, or offensive;
 - v. promotes bigotry, racism, hatred or harm against any individual or group;
 - vi. infringes another's rights, including any Intellectual Property Rights; or
 - vii. violates, or encourages any conduct that would violate, any applicable law or regulation giving rise to civil liability;
- b. access, tamper with, or use non-public areas of the Site (including but not limited to user folders not designated as 'public' or that you have not been given permission to access), NostraData's computer systems, or the technical delivery systems of NostraData's providers;
- c. attempt to probe, scan, or test the vulnerability of any part of the Site or Software or any related system or network or breach any security or authentication measures;
- d. attempt to access or search the Site, Content, Reports or Raw Data with any engine, software, tool, agent, device or mechanism other than the software and/or search agents provided by NostraData or other generally available third-party web browsers (such as Microsoft Internet Explorer or Mozilla Firefox), including but not limited to browser automation tools;

- e. use the Site or Content to send unsolicited email, junk mail, "spam," or chain letters, or promotions or advertisements for products or services;
 - f. forge any TCP/IP packet header or any part of the header information in any email or newsgroup posting, or in any way use the Site to send altered, deceptive or false source-identifying information;
 - g. attempt to decipher, decompile, disassemble or reverse engineer the Software, the Site, Content, Reports or Output Data;
 - h. interfere with, or attempt to interfere with, the access of any user, host or network to the Site, including, without limitation, sending a virus, overloading, flooding, spamming, or mail-bombing the Site; or plant malware on NostraData's computer system, those systems of NostraData's providers, or otherwise use the Site; or
 - i. use the Site, Content, Reports or Output Data to impersonate or misrepresent your affiliation with any person or entity.
- 12.2 NostraData has the right (but not the obligation) to investigate and take action for breach of any of the above, including Intellectual Property Rights infringement and breach of Site security. NostraData may involve and cooperate with law enforcement authorities if applicable.

13 **SITE SERVICES, LINKS**

- 13.1 NostraData may change the Site, Content or Services:
- a. subject to notice or other provisions under an applicable Service Agreement; or
 - b. otherwise without notice at any time.
- 13.2 The Site may contain links to third-party websites or resources. You acknowledge and agree that NostraData is not responsible or liable for:
- a. the availability or accuracy of such websites or resources; or
 - b. the content, products, or services on or available from such websites or resources.
- 13.3 Links to such websites or resources do not imply any endorsement by NostraData of such websites or resources or the content, products, or services available from such websites or resources. You acknowledge sole responsibility for and assume all risk arising from your use of any such websites or resources.

14 **TERMINATION**

- 14.1 If you breach your obligations under this Agreement, your permission (if any) to use the Site, Content or Reports will automatically terminate. NostraData reserves the right to revoke your access to and use of the Site, Content and Reports (or either of them):
- a. at any time, with cause and without notice;
 - b. at any time with notice in accordance with an applicable Service Agreement;
 - c. where no Service Agreement applies, at any time without notice.
- 14.2 NostraData may terminate this Agreement without cause on 30 days' written notice to you.
- 14.3 NostraData may terminate this Agreement immediately upon written notice to you if the Services Agreement is terminated for any reason or if applicable fees are not paid to NostraData in accordance with the Services Agreement.
- 14.4 You may terminate this agreement without cause on 30 days' written notice to NostraData.
- 14.5 On termination of this Agreement, NostraData is entitled to retain or delete any or all of the Output Data or Reports, including any previous versions and/or prior backups of the Output Data.
- 14.6 On termination of this Agreement, you must remove all copies of the Software (including all documentation), and you must cease using or accessing the Software, Services and the Site.

15 **NOSTRADATA SERVICES ARE AVAILABLE "AS-IS"**

- 15.1 To the full extent permitted at law the Software, Site, Content, Reports and Services are provided "as is", without warranty or condition of any kind, either express or implied.
- 15.2 Any of the terms and conditions of this Agreement which limit or exclude any term, condition or warranty, express or implied, or the liability of NostraData will apply to the extent permitted by law and will not be construed as excluding, qualifying or limiting your statutory rights or remedies arising by virtue of the breach of any implied term of these terms and conditions where such exclusion, qualification or limitation would be prohibited by statute. If the Trade Practices Act 1974 (Cth) (or analogous legislation) applies to this Agreement and permits the limitation of liability for breach of warranty implied by statute, the liability of NostraData is limited, at the option of NostraData, to:
- a. in the case of goods, any one or more of the following:
 - i. the replacement of the goods or the supply of equivalent goods;
 - ii. the repair of goods;
 - iii. the payment of the cost of replacing the goods or of acquiring equivalent goods; or

- iv. the payment of the cost of having the goods repaired; and
- b. in the case of services:
 - i. supplying of the services again; or
 - ii. the payment of the cost of having the services supplied again.

16 LIMITATION OF LIABILITY

- 16.1 To the fullest extent permitted at law in no event will NostraData be liable to you (whether arising in contract, tort or otherwise) for any indirect, special, incidental, punitive or consequential loss and damage (including loss of use, loss of data, loss of business or profits, business interruption or loss of information) arising out of or in connection with:
- a. this Agreement, the Site, Content, Reports or Services;
 - b. a breach of this Agreement by NostraData or any wrongful act or omission by NostraData in connection with this Agreement;
 - c. your access to or use of, or inability to access or use, the Site, Content, Reports and/or Services; or
 - d. the Transmission of the Raw Data or NostraData's access to the Files,

and NostraData's sole liability to you for any direct loss and damage (whether arising in contract, tort or otherwise) in connection with the matters referred to in paragraphs (a) to (d) (both inclusive) of this clause is limited to the amount of the fees received by NostraData for the Services provided to the Recipient under this Agreement.

17 MISCELLANEOUS

- 17.1 Clauses 6, 8.1, 9.2, 10.1, 10.2, 11, 12.2, 14.5, 14.6 and 16 survive the termination or expiry of this Agreement.
- 17.2 Any notice, demand or other communication to be given or required to be made pursuant to this Agreement is to be in writing and is to be given by post, facsimile, email or hand to a party at the party's address as is notified in writing by one party to the other party.
- 17.3 NostraData may assign its rights and obligations under this Agreement at anytime upon written notice to you.
- 17.4 Each provision that is capable of having effect after the termination of this Agreement and each representation and warranty made in this Agreement will survive the termination of this Agreement and the performance of all obligations under this Agreement and will not merge on termination.
- 17.5 The parties acknowledge and agree that no rule of construction applies to the disadvantage of a party because the party was responsible for the preparation of this Agreement or part of it.
- 17.6 Each party agrees to do all things that may be necessary or desirable to give full effect to every part of this agreement if asked in writing by another party to do so.
- 17.7 In the event that any provision of this Agreement is held to be illegal, invalid or unenforceable, the remaining provisions of this Agreement will remain in full force and effect.
- 17.8 The failure of NostraData to enforce any right or provision of this Agreement will not be deemed a waiver of such right or provision.
- 17.9 This Agreement and any action related thereto will be governed by the laws of the State of Victoria. The exclusive jurisdiction and venue of any action with respect to the subject matter of this Agreement will be the courts of the State of Victoria.
- 17.10 This Agreement is the entire agreement between NostraData and you regarding the subject matter of it, and this Agreement supersedes and replaces any prior agreements between NostraData and you in relation to that subject matter.