

CONTACT HARALD SOFTWARE-AS-A-SERVICE TERMS (SAAS Terms)

1. ¹SAAS Terms

- 1.1 These SAAS Terms govern the legal use of VT42 Pty Ltd trading as Contact Harald ABN 77 373 551 818 (**Contact Harald, we, us, our**) "software-as-a-service" (also known as "SAAS software") containing Software that is proprietary to us and used for contact tracing (the "**Application**") that is specifically licensed royalty-free to the Customer (**Customer, you**), pursuant to your Contract with us.
- 1.2 We may add to or change these SAAS Terms at any time. The Customer will be bound by and agrees to accept the then current SAAS Terms which apply at the date of the relevant Contract.

2. Licence Grant

- 2.1 We own all rights, title, and interest in and to the Application (and all Software in it) subject to any limitations associated with intellectual property rights of third parties. Our rights apply to the Application, all output and executables of the Software, excluding any software components developed by the Customer which do not themselves incorporate the Software or any output or executables of the Software.
- 2.2 By the Customer entering into the Contract, the Customer irrevocably acknowledges that, subject to the licences granted, the Customer has no ownership interest in the Application, our Software, or our documents or materials provided to you in respect of such. We reserve all rights not specifically granted herein.

3. SAAS Licence

- 3.1 Subject to all limitations and restrictions contained herein and the express terms of your Contract, we grant the Customer and its Users a term subscription, software-as-a-service, nonexclusive, and non-transferable right to access and operate the object code form of the Application as hosted by us in connection with the Product and Other Goods described in the Contract, solely for the Permitted Use and solely to perform those functions for:
- (a) the relevant Software described in the Contact Harald User Guide and Product Warranty and Standard Use document; and
- (b) the Software Licence Term.
- 3.2 The licence does not permit the Customer to sub-licence, develop, modify or adapt the Application or Software in any way.
- 3.3 The Customer shall not allow any other software or application to frame, syndicate, distribute, replicate, or copy any portion of the Application or Software.
- 3.4 Unless otherwise expressly permitted in the Contract, the Customer shall not permit any subsidiaries, affiliated companies, or third parties to access the Application.

4. Licence Type

- 4.1 The Customer shall ensure that the number of the active Users of the Application is equal to or less than the number of User accounts for which the Customer has purchased in the Contract. The Customer is responsible for ensuring that access to a User account is not shared. Only one individual may authenticate its use of the Application to one User account. Hardware or software the Customer uses to pool connections, reroute information, or reduce the number of users that directly access or use the Software (sometimes referred to as "multiplexing" or "pooling"), does not reduce the number of licences or active Users.
- 4.2 In no event will the Customer disassemble, decompile, jailbreak or reverse engineer the Application, the Software in it or any confidential information in such or permit others to do so. Disassembling, decompiling, jailbreaking and reverse engineering include, without limitation:
- (a) converting the Application from a machine-readable form into a human-readable form;
- (b) disassembling or decompiling the Application by using any means or methods to translate machine-dependent or machine-independent object code into the original human-readable source code or any approximation thereof;
- (c) examining the machine-readable object code that controls the Application's operation and creating the original source code or any approximation thereof by, for example, studying the Application's behaviour in response to a variety of inputs; or
- (d) performing any other activity related to the Application that could be construed to be reverse engineering, jailbreaking, disassembling, or decompiling.
- 4.3 To the extent any such activity may be permitted pursuant to written agreement, the results thereof will be deemed confidential information subject to the requirements of these SAAS Terms and owned by us. The Customer may only use our confidential information solely in connection with the Application and pursuant to these SAAS Terms.

- 4.4 The Application may contain third party software that requires notices and/or additional terms and conditions. Such required third party software notices and/or additional terms and conditions may be requested by us and are made a part of and incorporated by reference into these SAAS Terms.

5. Service Availability

- 5.1 We will use reasonable efforts to maintain the availability of the Application however we provide it "as is" and without any specific service level or uptime level. From time to time, we will have IT environment, infrastructure and network maintenance and issues to deal with and it may cause our Application to suffer downtime without being a defect or resulting in any refund to the Customer.
- 5.2 From time to time we will update the Application and the Software in our Product and Other Goods. Where we do so, we will give you 30 days notice and you will be required to update accordingly. If you do not update as required, you may still be able to use the Application however we do not support or warrant the older version of the Application and Software, and to the full extent of the law, we disclaim the Software and the service that you receive in respect of such older version.
- 5.3 Except to the extent your Contract expressly provides otherwise, we may elect to provide the Customer with support or modifications for the Application, in our sole discretion, and may terminate such support at any time without providing notice to the Customer.

6. Suggestions/Improvements to Software

- 6.1 Unless otherwise expressly agreed in writing, all suggestions, solutions, improvements, corrections, and other contributions provided by the Customer regarding the Application, any of our Software (including in the Product and Other Goods) or any of our other materials and documents provided to Customer will be owned by us, and the Customer hereby agrees to assign any such rights to us. Nothing in these SAAS Terms will preclude us from using in any manner or for any purpose (we deem necessary) the know-how, techniques, and procedures acquired or used by us in the performance of Services or the delivery of Software.

7. Data

- 7.1 Customer data uploaded by the Customer is owned by the Customer and/or the relevant individual User, not by us. The Customer shall:
- (a) be responsible and liable for securing all relevant consents from individuals for the purpose of storing, accessing and using their personal information with the Application (including our access to perform Services);
- (b) collect, upload and update personal information to the database allocated to Customer in an accurate and up-to-date manner;
- (c) keep safe and secure all login details, passwords and security of access to the Application;
- (d) ensure that only authorized recipients of the Customer use, obtain copies of, or have access to Customer data;
- (e) comply with any requirements or restrictions imposed on the use of Customer data and personal information by their respective owners, Customer privacy policies and by law. In all cases, the Customer is solely responsible for making use of such data in compliance with the applicable Customer's requirements, obligations and restrictions;
- (f) remove from the Application any personal information that an individual User asks the Customer to remove within 24 hours;
- (g) disclose through a privacy policy how it collects, uses, stores and discloses data collected from Users of the Product and Application;
- (h) notify us without undue delay (and in any event within 48 hours), of any request for information from or complaint by a regulatory authority in relation to the privacy of Customer data on our database; and
- (i) provide an accurate statement of intended use of the Application upon request, and once provided restrict the Customer's activities to stay within this statement.

- 7.2 The Customer grants us a non-exclusive, royalty-free licence to access, use, reproduce, modify, perform, display and distribute Customer data as is reasonable or necessary for us to provide the Application and our Product, Other Goods and Software under your Contract with us.

8. Warranties and Disclaimers

- 8.1 To the best of our knowledge, the Application does not contain any malicious code, program, or other similar internal component (eg: computer virus, computer worm, or similar component), which could damage, destroy, or alter the Application, or which could reveal, damage, destroy, or alter any data or other information accessed through or processed by the Application in any manner other than code we may use to suspend or terminate access to the Application and/or any part of it at any time under these SAAS Terms or any part of the Contract.

- 8.2 The terms of the Product Warranty and Standard Use document apply to the access and use of the Application. Where a non-conformance under these SAAS Terms or the Product Warranty occurs, the Customer shall:

¹ 10 May 2021

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- (a) notify us promptly in writing of any such non-conformance;
- (b) provide us with a reasonable opportunity to remedy any such non-conformance; and
- (c) provide reasonable assistance in identifying and remedying any such non-conformance.
- 8.3 The Application, the Software in it and any other technology or materials provided by us to the Customer are provided "as is" and without warranty of any kind. EXCEPT AS OTHERWISE EXPRESSLY STATED IN THESE SAAS TERMS, WE MAKE NO OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING EXPRESS OR IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT. NEITHER WE (NOR ANY OF OUR SUBSIDIARIES, AFFILIATES, SUPPLIERS OR LICENSORS) WARRANT OR REPRESENT THAT THE APPLICATION OR THE SOFTWARE WILL BE UNINTERRUPTED, ERROR-FREE, OR SECURE. THE CUSTOMER ACKNOWLEDGES THAT THERE ARE RISKS INHERENT IN INTERNET CONNECTIVITY THAT COULD RESULT IN THE LOSS OF CUSTOMER'S PRIVACY, DATA, CONFIDENTIAL INFORMATION, AND/OR PROPERTY.
- 8.4 Notwithstanding anything to the contrary in these SAAS Terms, any and all warranties under these SAAS Terms and the Product Warranty and Standard Use document are VOID if the Customer or any of its Users makes any change to the Application or the Software other than by or with our express written approval (executed by one of our officers).
- 9. Intellectual Property**
- 9.1 We will have no liability for any claim of intellectual property infringement based on:
- (a) software in the Application which has been modified by parties other than us where the infringement claim would not have occurred in the absence of such modification;
- (b) the Customer's use of the Application or any of our Software in conjunction with data where use with such data gave rise to the infringement claim; or
- (c) the Customer's use of the Application or Software outside the Permitted Use or outside the scope of these SAAS Terms.
- 9.2 Should the Application or any Software become, or in our opinion is likely to become, the subject of a claim of infringement, we may, at our option:
- (a) obtain the right for the Customer to continue using the Application;
- (b) replace or modify the Application so it is no longer infringing or reduces the likelihood that it will be determined to be infringing; or
- (c) if neither of the foregoing options is commercially reasonable, terminate the access and use of the Application. Our liability upon such termination is provided for in the Contract.
- 10. Indemnity and Liability**
- 10.1 The indemnity and liability provisions in the Contract apply to these SAAS Terms.
- 10.2 To the maximum extent permitted at law, our liability in respect of these SAAS Terms, whether to the Customer and/or any User is subject to the exclusions and capped at the amount that is the total payment for Product under the relevant Contract.
- 11. Term and Termination**
- 11.1 Unless we terminate these SAAS Terms under a provision of the Contract (including these SAAS Terms), the term of these SAAS Terms will continue until the expiry or termination of the last Software Licence Term under your Contract with us.
- 12. Customer Obligations**
- 12.1 The Product and the Software in it we supply are often activated by downloading the Application and/or activating the Cards we supply. It is the Customer's responsibility to ensure that it and its Users undertake this step as provided for in the User Guide or as instructed by us.
- 12.2 The Customer agrees to, and will procure that Users will, comply with all applicable laws, regulations, and ordinances relating to these SAAS Terms, the Application and the Software in it.
- 12.3 The Customer must inform its Users before the beginning of their use of the Application about the rights and obligations set out in these SAAS Terms. The Customer will be liable for any violation of obligations by its Users or by other third parties within the Customer's control who violate these obligations.
- 12.4 Before uploading any data or information to the Application or any Software, the Customer shall be obliged to check the same for viruses or other harmful components and to use state of the art anti-virus programs for this purpose. The Customer itself shall be responsible for the entry and the maintenance of its data.
- 12.5 The Customer is solely responsible for:
- (a) how it implements the Product, the Software and the Application in accordance with the Permitted Use for the benefit of its Users; and
- (b) its own contact tracing program.
- 12.6 The Customer shall not:
- (a) use the Application for any application that replicates or attempts to replace the essential user experience of any Contact Harald software, app or website;
- (b) attempt to cloak or conceal the Customer's identity or any user's identity when accessing or using the Application;
- (c) cache or store any content other than for reasonable periods in order to provide the service the Customer is providing to its clients;
- (d) use the Application for any application that constitutes, promotes or is used in connection with spyware, adware, or any other malicious programs or code;
- (e) use the Application in any manner or for any purpose that violates any law or regulation within Australia, the territories where the Product and the Application are used and the location of any of its own servers, or any rights of any person, including but not limited to intellectual property rights, rights of privacy, or rights of personality;
- (f) use the Application or any of the Software in a manner that adversely impacts the stability of contactharald.com, the Application or the Application's servers or adversely impacts the behaviour of other applications using the Application. Further, we reserve the right to rate limit or block applications that make a large number of calls to our Application or Software that are not primarily in response to direct user actions;
- (g) sell, lease, or sub-license the Application or access thereto or derive revenues from the use or provision of the Software, whether for direct commercial or monetary gain or otherwise, without our prior written agreement; or
- (h) serve, or allow third parties to serve, advertising materials to clients, or to collect data for the purposes of marketing or advertising.
- 13. Miscellaneous**
- 13.1 The parties agree to comply with all applicable laws, regulations, and ordinances relating to such party's performance under these SAAS Terms.
- 13.2 Clauses in these SAAS Terms which are intended to survive termination or expiration (eg: terms in respect of intellectual property, liability and indemnities) will survive the termination or expiration of these SAAS Terms and any applicable licence hereunder.
- 13.3 Use of the Application, the Software by or for the United States Government is conditioned upon the Government agreeing that the Software is subject to Restricted Rights as provided under the provisions set forth in FAR 52.227-19. The Customer shall be responsible for assuring that this provision is included in all agreements with the United States Government and that the Software, when accessed by the Government, is correctly marked as required by applicable Government regulations governing such Restricted Rights as of such access.
- 14. Application of Standard Terms and Conditions**
- 14.1 These SAAS Terms make up part of your Contract with us. These SAAS Terms import and are to be read with the Standard Terms & Conditions and to the extent they do not apply, then these import and are to be read with any other written terms and conditions for the supply of the Application agreed between us and you. In respect of the Application, in the event of any inconsistency with those terms and these SAAS Terms, the SAAS Terms will prevail.
- 14.2 Terms used in these SAAS Terms have the meanings used in the Standard Terms & Conditions.