

# Alcohol Cutdown Coach (“ACC”) Terms & Conditions

## 1. Agreement

This Agreement forms the entire agreement between Dell ‘Aquila Road Pty Ltd (ACN 603 563 515) (“Alcohol Cutdown Coach” “us” “we” “our” “Licensor” “ACC”) and Users (“you” “the User” “Users”) under which ACC provides services via Software through [www.alcoholcutdowncoach.com](http://www.alcoholcutdowncoach.com) (“site”) and through the ACC mobile device application (“app”). By accessing, installing, copying or otherwise using the Software, Users (“you”) agree to be bound by these terms and conditions. These terms and conditions may be updated from time to time at our discretion and the current version will be made available on the site. Users are responsible for reviewing and keeping informed of any changes to these terms and conditions. Your acceptance of amended terms and conditions is implied by the continued use of the Software.

## 2. License

Your use of the software is subject to a license hereby granted by ACC for the non-exclusive, non-transferable, limited right to use the Software on a mobile device, unless otherwise specified by ACC. This license commences on the date that you install or otherwise use the Software and ends on the earlier date of either your disposal of the Software or ACC’s termination of the license. ACC retains the discretion to terminate your license immediately and without further notice if you attempt to circumvent any technical protection measures implemented in connection with the Software or take any other action which ACC considers to be misuse of the Software. All rights not specifically granted under this Agreement are reserved by ACC and, as applicable, its licensors. ACC retains all ownership and proprietary rights in the Software.

## 3. Provision of Services: Legal Disclaimer

ACC provides Software which is intended to provide a quick and simple method of monitoring a User’s Alcohol Free Day (AFD) count over a set period of time, as set by the User. Users may wish to reach a set number of AFDs over a given period for many reasons and with one or many goals in mind. ACC does not guarantee in any way, or suggest that any of these goals will be met by the use of the Software.

It is entirely the User’s responsibility at all times to ensure that they do not exceed a healthy limit of alcohol (whatever this may be). In some cases consumption of any alcohol at all is unsafe for some people and the use of the Software should not be seen in any way to be endorsing the unsafe use of alcohol under any circumstances.

ACC bears no responsibility whatsoever for the accuracy or otherwise of the data that is input, or for any actions or activities that this data is representative of, or its consequences. Data returned by the ACC app is approximate only and should not be considered otherwise. Data pertaining to calories lost, money saved and other such items are approximations and are based on estimates provided by the User. As such they should not be considered to guide or otherwise advise the User on issues of health, finance or any other matter.

ACC does not endorse or encourage the use or abuse of alcohol.

The User verifies that the use of this Software is not unlawful in any way, including in countries where the consumption of alcohol is illegal or where a minimal legal drinking age exists. In the case that such use is unlawful the User indemnifies ACC for any prosecution or other damages arising from such unlawfulness.

ACC does not claim to provide a holistic analysis of a User's health or financial position. ACC does not provide any advice or opinion about Users' consumption of alcohol. We provide tools that the User may choose to utilise. We recommend that Users seek independent medical and/or financial advice for specific advice about your personal circumstances.

ACC reserves the right to make changes to the Software, its operation and application at any time without prior notice to Users. ACC will take steps to ensure the ongoing effective operation and maintenance of the Software and take steps to repair technical issues that arise from within the Software within a reasonable time, with the limitation that the issues are of a global nature, and do not arise from individual use. ACC will not be liable for any issues or damages arising from third party interference.

#### **4. Payment**

We reserve the right to implement charges for the services that we provide. Users will be notified if a charge is imposed and will have the option to discontinue the use of the service. In the case of discontinuation of use no refund will be given on amounts already paid for use of the Software.

#### **5. Cancellation**

Users can cease to use the Software at any time. Cancellation of the software by the User will not be considered cause for a refund or compensation in any form whatsoever.

#### **6. Conditions of Use**

- 6.1 Users agree to use the Software for its proper purpose in accordance with these terms and conditions, and the license provisions contained herein.
- 6.2 Users agree to supply ACC with information that is true and correct and not false or misleading.
- 6.3 Users agree to use the Software in good faith and in a way so as to not bring disrepute or cause reputational or other damage to ACC, the Software or to the goodwill relating to the services provided under this agreement.
- 6.4 Users agree to use the Software solely for individual use and will not pass on or share the Software with any other party in whole or in part. Any liability arising from the use of the Software or its conceptual content that occurs as a result of the User allowing another party to use the Software (including through failure to secure the software or the device on which it resides) will be solely that of the User.
- 6.5 Users agree to use the Software and the services in accordance with the technology and systems as provided. ACC will not make changes to its technology, systems or processes to accommodate individual needs.
- 6.6 Users agree not to:

- (i) Distribute, lease, license, sell, rent or otherwise transfer or assign the Software, or any copies of the Software, without the express prior written consent from us;
- (ii) Make a copy of the Software or any part thereof;
- (iii) Reverse engineer, decompile, disassemble, and/or prepare derivative works based on the Software, in whole or in part;
- (iv) Otherwise modify the Software, in whole or in part;
- (v) Remove or modify any proprietary notices, marks or labels contained on or within the Software;
- (vi) Use the Software in a manner that is unlawful, fraudulent or deceptive or that encourages conduct that would constitute a criminal offence, or give rise to civil liability;
- (vii) Use the Software in a way that terminates these terms and conditions;
- (viii) Use technology or other means that is not authorised by us to access the Software;
- (ix) Use or launch any automated system, including without limitation, "robots," "spiders," or "offline readers," to access the Software;
- (x) Attempt to, or introduce viruses or any other computer code, files or programs that may interrupt, destroy or limit the functionality of any computer software or hardware or telecommunications equipment;
- (xi) Gain or attempt to gain unauthorised access to the Software including the networks or User accounts;
- (xii) Attempt to or engage in conduct that damages, disables, overburdens, or impairs the Software servers or networks.

## **7. Warranty and Indemnity**

ACC is a company incorporated under the laws of Australia and is an entity capable of suing and being sued. ACC provides the services described in this Agreement in accordance with the Australian Consumer Law. The following exclusions and limitations apply to the extent permitted by law.

We do not warrant the performance in any manner of the Software on individual computers and devices. We are not liable for any third party interference with the Software on a User's computer or mobile device. ACC does not warrant that the Software will meet individual requirements, that the operation of the Software will be uninterrupted or error-free, or that the Software will be compatible with third party software or hardware. While we will use reasonable endeavours to rectify errors arising from within the Software we do not warrant that all errors in the Software will be corrected. We are not responsible for rectifying errors that arise from individual use or installation of the Software.

ACC is not responsible for rectifying errors that arise with a third party platform provider. Nor are we liable for any default due to an act of God, war, terrorism, strike, lock-out, industrial action, fire, flood, storm or other event beyond our reasonable control.

ACC does not verify the information collected from the User. To the extent provided by law, we are not liable for any damages resulting from the possession, use or malfunction of the software including but not limited to property damage, personal health, loss of profits or goodwill. You agree to indemnify, ACC, its partners, licensors, affiliates, contractors,

officers, directors, employees and agents for any claim arising directly or indirectly from your acts and omissions in using the Software pursuant to the terms of the Agreement.

## **8. Intellectual Property**

ACC retains all right, title and interest to the Software, including, but not limited to, all copyrights, trademarks, trade secrets, trade names, proprietary rights, patents, titles, computer codes, audio-visual effects, themes, characters, character names, stories, dialog, settings, artwork, sounds effects, musical works, and moral rights. The Software is protected by Australian copyright and may not be copied, reproduced or distributed in any manner or medium, in whole or in part, without prior written consent from ACC. Any persons copying, reproducing or distributing all or any portion of the Software in any manner or medium, will be violating the copyright laws and may be subject to civil and criminal penalties in Australia or their local country.

## **9. Termination**

This Agreement is effective until terminated by either party. For termination to be effective, a User must cancel our services in accordance with clause [5] of these terms and conditions. ACC has the right to terminate the service to a User, immediately and without notice, in the event of a breach of these terms and conditions

Upon any termination, you must permanently destroy all copies of the Software, accompanying documentation, associated materials, and all of its component parts in your possession or control including from any client server or computer/device on which it has been installed.

## **10. Governing Law**

This Agreement shall be governed by the laws of the Commonwealth of Australian and the State of Victoria. If any provision of this Agreement is held to be unenforceable for any reason, such provision shall be considered void to the extent necessary to make it enforceable and the remaining provisions of this Agreement shall not be affected.

## **11. Apple App Store Additional License Terms**

These license terms are in addition to all other terms of the Limited Software Warranty; License Agreement, and Information Use Disclosures. If any Software is provided to you through the Apple Inc. ("Apple") App Store, then the following additional terms and conditions in this paragraph apply. This Agreement is solely between you and Licensor, and not with Apple. You acknowledge that Apple has no obligation to furnish any maintenance or support services to you in connection with the Software. In the event of any failure of the Software to conform to the Limited Warranty in this Agreement, you may notify Apple, and Apple will refund the purchase price (if any) for the Software. Except for the foregoing, to the maximum extent permitted by applicable law, Apple will have no other warranty obligation whatsoever with respect to the Software. Any claim in connection with the Software related to product liability, a failure to conform to applicable legal or regulatory requirements, claims under consumer protection or similar legislation or intellectual property infringement are governed by this Agreement, and Apple is not responsible for such claims.

You must comply with the App Store Terms of Service, including the Usage Rules. The license to the Software is a non-transferable license to use the Software only on an iPhone, iPad or iPod touch that you own or control. You represent that you are not located in any U.S. embargoed countries or on the U.S. Treasury Department's list of Specially Designated Nationals or the U.S. Department of Commerce Denied Person's list or Entity List. Apple is a third party beneficiary to this Agreement and may enforce this Agreement against you.

All other terms and conditions of the Terms and Conditions apply to your use of the Software.

## **12. Android Market Additional License Terms**

These license terms are in addition to all other terms of the Limited Software Warranty; License Agreement, and Information Use Disclosures. If any Software is provided to you through the Google Play Android Market ("Google"), then the following additional terms and conditions in this paragraph apply. This Agreement is solely between you and Licensor, and not with Google. You acknowledge that Google has no obligation to furnish any maintenance or support services to you in connection with the Software. Any claim in connection with the Software related to product liability, a failure to conform to applicable legal or regulatory requirements, claims under consumer protection or similar legislation or intellectual property infringement are governed by this Agreement, and Google is not responsible for such claims. You must comply with the Google Play Terms of Service, including any usage rules.

## **13. Complaints**

Any complaints can be made to [support@alcoholcutdowncoach.com](mailto:support@alcoholcutdowncoach.com)