**Care Friends Terms of Service**

Date of Last Revision: 17.11.2020

Welcome to the website or mobile application of ER Group Pty Ltd as trustee for the Carillon Trust trading as "Care Friends" (ABN 18 189 040 552) ("we", "us" or the "Company").

Care Friends is an online platform and webbased portal, comprising a mobile application (the **Site**) which facilitates the operation and management of employee referral schemes in a way that is mutually beneficial to employers and employees. This agreement applies to your and your employees, contractots and agents access to and use of the Site and App (the **Services**).

By accessing the Site, you agree to be bound by these terms of use ("Website Terms of Use" or “Agreement”). These Website Terms of Use constitute a binding agreement between you and us and govern your use of the Site and App.

Please note that the app is compatible with Android and Apple ios only.

Care Friends acts as a data processor in respect of your employee data. We will only access your portal as required to help us manage and support your use of the Services.

1. Interpretation
   1. The definitions and rules of interpretation in this clause apply in this agreement.

**Applicable Laws:** all laws, statutes, regulation and codes from time to time in force that are applicable to the Supplier in the context of its provision of the Services.

**Authorised Users:** those employees, agents and independent contractors of the Customer who are authorised by the Customer to use the Services and the Documentation, as further described in clause 2.2.3.

**Business Day:** a day other than a Saturday, Sunday or public holiday in Brisbane, Australia when banks in Brisbane are open for business.

**Business Hours:** 9.00 am to 5.00 pm AEST, each Business Day.

**Care Friends Trade Marks:** the registered and unregistered trade marks belonging to Care Friends and made available to the Customer in accordance with clause 10.3.

**Confidential Information:** information that is proprietary or confidential and is either clearly labelled as such or identified as Confidential Information in clause 11.5 or clause 11.6.

**Controller, processor, data subject, personal data, personal data breach, processing** and **appropriate technical and organisational measures**: as defined in the Data Protection Legislation.

**Customer**: you or the person or organisation accessing the Site.

**Customer Data:** the data inputted by the Customer, Authorised Users, or Care Friends on the Customer's behalf for the purpose of using the Services or facilitating the Customer's use of the Services.

**Data Protection Legislation** includes all applicable data protection and privacy legislation in force from time to time in Australia including the Privacy Act 1988.

**Documentation:** the document made available to the Customer by Care Friends online via www.carefriends.com.au/termsofservice or such other web address notified by Care Friends to the Customer from time to time which sets out a description of the Services and the user instructions for the Services.

**Effective Date:** the date of this agreement.

**Employee Referral Scheme:** the Customer’s employee referral scheme policy.

**Fees:** the subscription fees payable by the Customer to Care Friends for the User Subscriptions, as otherwise provided to the Customer in writing.

**Initial Subscription Term:** 12 months or such other period as agreed between the parties in writing (cancellable at any time in accordance with clause 14.1.1.) beginning on the Services Commencement Date.

**Offensive Data:** Customer Data that is any one or more of the following: unlawful; harmful; threatening; defamatory; obscene; infringing; harassing; racially or ethnically offensive; facilitates illegal activity; depicts sexually explicit images; promotes unlawful violence; discriminatory based on race, gender, colour, religious belief, sexual orientation, disability; in breach of any third party’s copyright or other intellectual property rights; or is otherwise illegal or causes damage or injury to any person or property.

**Renewal Period:** 12 months.

**Services:** the subscription services provided by Care Friends to the Customer under this agreement via www.carefriends.com.au or any other website notified to the Customer by Care Friends from time to time, as more particularly described in the Documentation.

**Services Commencement Date:** the date of receipt of payment of the Fees by Care Friends in relation to the Initial Subscription Term under clause 9.2 or 9.3.

**Software:** the online software applications provided by Care Friends as part of the Services.

**Subscription Term:** has the meaning given in clause 14.1 (being the Initial Subscription Term together with any subsequent Renewal Periods).

**Support Policy:** Care Friends' policy for providing support in relation to the Services as made available at www.carefriends.com.au/termsofservice or such other website address as may be notified to the Customer from time to time.

**User Subscriptions:** the user subscriptions, calculated in accordance with the Customer’s total number of employees, purchased by the Customer pursuant to clause 9.1 which entitle Authorised Users to access and use the Services and the Documentation in accordance with this agreement.

**Virus:** any thing or device (including any software, code, file or programme) which may: prevent, impair or otherwise adversely affect the operation of any computer software, hardware or network, any telecommunications service, equipment or network or any other service or device; prevent, impair or otherwise adversely affect access to or the operation of any programme or data, including the reliability of any programme or data (whether by re-arranging, altering or erasing the programme or data in whole or part or otherwise); or adversely affect the user experience, including worms, trojan horses, viruses and other similar things or devices.

* 1. Clause headings shall not affect the interpretation of this agreement.
  2. A person includes an individual, corporate or unincorporated body (whether or not having separate legal personality) and that person's legal and personal representatives, successors or permitted assigns.
  3. A reference to a company shall include any company, corporation or other body corporate, wherever and however incorporated or established.
  4. Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular and a reference to one gender shall include a reference to the other genders.
  5. A reference to a statute or statutory provision is a reference to it as it is in force as at the date of this agreement.
  6. A reference to a statute or statutory provision shall include all subordinate legislation made as at the date of this agreement under that statute or statutory provision.
  7. A reference to writing or written includes email.
  8. References to clauses are to the clauses of this agreement.

1. User subscriptions
   1. Subject to the Customer purchasing the User Subscriptions in accordance with clause 3.2 and clause 9.1, the restrictions set out in this clause 2 and the other terms and conditions of this agreement, Care Friends hereby grants to the Customer a non-exclusive, non-transferable, non-sublicenseable right to permit the Authorised Users to use the Services and the Documentation during the Subscription Term solely for the Customer's internal business operations.
   2. In relation to the Authorised Users, the Customer undertakes that:
      1. it shall use reasonable endeavours to provide Care Friends with an accurate estimate of the number of anticipated Authorised Users to enable Care Friends to calculate the number of User Subscriptions required by the Customer;
      2. each Authorised User shall keep a secure password for her use of the Services and Documentation and that each Authorised User shall keep her password confidential;
      3. if Care Friends becomes aware that the number of Authorised Users exceeds the number of User Subscriptions purchased in breach of the Care Friends [Fair Usage Policy](https://carefriends.co.uk/fairusage/), then without prejudice to Care Friends’ other rights Care Friends reserves the right to require the Customer to pay to Care Friends additional Fees in accordance with clause 3; and
      4. if Care Friends becomes aware that the Customer or any Authorised User (or anyone for whom the Customer is responsible but who is not an Authorised User) is using the Service in contravention of this Agreement, Care Friends may at its discretion suspend or terminate any applicable User Subscriptions or the Customer’s access to the Services.
   3. The Customer shall not access, store, distribute or transmit any Viruses during the course of its use of the Services. The Customer also acknowledges that Care Friends does not monitor the Customer Data and accordingly the Customer takes full responsibility for any Customer Data that is Offensive Data.
   4. If Care Friends becomes aware that any part of the Customer Data is Offensive Data, Care Friends reserves the right, without liability or prejudice to its other rights to the Customer, to take down or remove Offensive Data and/or disable the Customer's access to the Customer Data that contains Offensive Data.
   5. The Customer shall not:
      1. except as may be allowed by any applicable law which is incapable of exclusion by agreement between the parties and except to the extent expressly permitted under this agreement:
         1. attempt to copy, modify, duplicate, create derivative works from, frame, mirror, republish, download, display, transmit, or distribute all or any portion of the Software and/or Documentation (as applicable) in any form or media or by any means; or
         2. attempt to de-compile, reverse compile, disassemble, reverse engineer or otherwise reduce to human-perceivable form all or any part of the Software; or
      2. access all or any part of the Services and Documentation in order to build a product or service which competes with the Services and/or the Documentation; or
      3. use the Services and/or Documentation to provide services to third parties; or
      4. subject to clause 16.8, license, sell, rent, lease, transfer, assign, distribute, display, disclose, or otherwise commercially exploit, or otherwise make the Services and/or Documentation available to any third party except the Authorised Users, or
      5. attempt to obtain, or assist third parties in obtaining, access to the Services and/or Documentation, other than as provided under this clause 2; or
      6. introduce or permit the introduction of, any Virus into Care Friends’ network and information systems.
   6. The Customer shall use all reasonable endeavours to prevent any unauthorised access to, or use of, the Services and/or the Documentation and, in the event of any such unauthorised access or use, promptly notify Care Friends.
   7. The rights provided under this clause 2 are granted to the Customer only, and shall not be considered granted to any subsidiary or holding company of the Customer.
2. Additional user subscriptions
   1. Where the Customer requires additional User Subscriptions in excess of the number originally purchased as a result of exceeding the Care Friends [Fair Usage Policy](https://carefriends.co.uk/fairusage/), the Customer will be required to purchase additional User Subscriptions. Care Friends shall grant access to the Services and the Documentation to such additional Authorised Users in accordance with the provisions of this agreement.
   2. If additional User Subscriptions are purchased by the Customer part way through the Initial Subscription Term or any Renewal Period (as applicable) in accordance with clause 3.1, such Fees shall be pro-rated from the date of activation by Care Friends for the remainder of the Initial Subscription Term or then current Renewal Period (as applicable).
3. Services
   1. Care Friends shall, during the Subscription Term, provide the Services and make available the Documentation to the Customer on and subject to the terms of this agreement.
   2. Care Friends shall use its reasonable endeavours to make the Services available at all times except for:
      1. planned maintenance; and
      2. unscheduled maintenance performed outside Business Hours, provided that Care Friends has used reasonable endeavours to give the Customer at least 2 Business Hours' notice in advance (other than in the case of an emergency).
   3. Care Friends will, as part of the Services and at no additional cost to the Customer, provide the Customer with Care Friends’ standard customer support services during Business Hours in accordance with Care Friends’ Support Policy in effect at the time that the Services are provided. Care Friends may amend the Support Policy in its sole and absolute discretion from time to time.
4. Privacy Policy

5.1 As part of these Website Terms of Use, your use of the Site and App are also subject to our Privacy Policy (located at <https://carefriends.com.au/clientresources/?item=13850> which is incorporated by reference into these Website Terms of Use.

1. Third party providers
   1. The Customer acknowledges that the Services may enable or assist it to access the website content of, correspond with, and purchase services from, third parties via third-party websites and that it does so solely at its own risk. Care Friends makes no representation, warranty or commitment and shall have no liability or obligation whatsoever in relation to the content or use of, or correspondence with, any such third-party website, or any transactions completed, and any contract entered into by the Customer, with any such third party.
   2. Any contract entered into and any transaction completed via any third-party website is between the Customer and the relevant third party, and not Care Friends. Care Friends recommends that the Customer refers to the third party's website terms and conditions and privacy policy prior to using the relevant third-party website. Care Friends does not endorse or approve any third-party website nor the content of any of the third-party website made available via Care Friends.
2. Care Friends obligations
   1. Care Friends undertakes that the Services will be performed substantially in accordance with the Documentation and with reasonable skill and care.
   2. The undertaking at clause 7.1 shall not apply to the extent of any non-conformance which is caused by use of the Services contrary to Care Friends’ instructions, or modification or alteration of the Services by any party other than Care Friends or Care Friends’ duly authorised contractors or agents. If the Services do not conform with the foregoing undertaking, Care Friends will, at its option, use its reasonable endeavours to correct or overcome any such non-conformance promptly, or cancel the Customer’s User Subscriptions and provide a refund for any unused Fees. Such correction or refund constitutes the Customer's sole and exclusive remedy for any breach of the undertaking set out in clause 7.1. Notwithstanding the foregoing Care Friends:
      1. does not warrant that the Customer's use of the Services will be uninterrupted or error-free; or that the Services, Documentation and/or the information obtained by the Customer through the Services will meet the Customer's requirements; and
      2. is not responsible for any delays, delivery failures, or any other loss or damage resulting from the transfer of data over communications networks and facilities, including the internet, and the Customer acknowledges that the Services and Documentation may be subject to limitations, delays and other problems inherent in the use of such communications facilities.
   3. This agreement shall not prevent Care Friends from entering into similar agreements with third parties, or from independently developing, using, selling or licensing documentation, products and/or services which are similar to those provided under this agreement.
   4. Care Friends warrants that it has and will maintain all necessary licences, consents, and permissions necessary for the performance of its obligations under this agreement.
3. Customer's obligations
   1. The Customer shall provide Care Friends with:
      1. all necessary co-operation in relation to this agreement; and
      2. all necessary access to such information as may be required by Care Friends;

in order to provide the Services, including but not limited to Customer Data, security access information and configuration services.

* 1. Furthermore the Customer shall:
     1. ensure that its Employee Referral Scheme is made available to Authorised Users prior to the Customer issuing them with a registration code for the App;
     2. be solely responsible for meeting any of the obligations set out in its Employee Referral Scheme;
     3. without affecting its other obligations under this agreement, comply with all applicable laws and regulations with respect to its activities under this agreement;
     4. carry out all other Customer responsibilities set out in this agreement in a timely and efficient manner. In the event of any delays in the Customer's provision of such assistance, as agreed by the parties, Care Friends may adjust any agreed timetable or delivery schedule as reasonably necessary;
     5. ensure that the Authorised Users use the Services and the Documentation in accordance with the terms and conditions of this agreement and shall be responsible for any Authorised User's breach of this agreement;
     6. obtain and shall maintain all necessary licences, consents, and permissions necessary for Care Friends, its contractors and agents to perform their obligations under this agreement, including without limitation the Services;
     7. ensure that its network and systems comply with the relevant specifications provided by Care Friends from time to time; and
     8. be, to the extent permitted by law and except as otherwise expressly provided in this agreement, solely responsible for procuring, maintaining and securing its network connections and telecommunications links from its systems to Care Friends’ data centres, and all problems, conditions, delays, delivery failures and all other loss or damage arising from or relating to the Customer's network connections or telecommunications links or caused by the internet.

1. Charges and payment
   1. The Customer shall pay the Fees to Care Friends in accordance with this clause 9.
   2. The Customer shall provide to Care Friends valid, up-to-date and complete credit card details or any other relevant valid, up-to-date and complete contact and payment details and:
      1. the Customer hereby authorises Care Friends to bill such credit card or other payment method:
         1. on the Effective Date for the Fees payable in respect of the Initial Subscription Term; and
         2. subject to clause 14.1, on each anniversary of the Effective Date for the Fees payable in respect of the next Renewal Period; and
         3. Upon approval of any Additional User Subscriptions pursuant to clause 3.
   3. Subject to obtaining express written consent from Care Friends the Customer may, as an alternative to clause 9.2, provide to Care Friends approved purchase order information acceptable to Care Friends in which case Care Friends shall invoice the Customer:
      * 1. on the Effective Date for the Fees payable in respect of the Initial Subscription Term; and
        2. subject to clause 14.1, at least 14 days prior to each anniversary of the Effective Date for the Fees payable in respect of the next Renewal Period,

and the Customer shall pay each invoice within 14 days after the date of such invoice.

* 1. Care Friends shall not start providing the Services until the Services Commencement Date. If payment has not been received within 14 days of the Effective Date then this agreement will terminate automatically.
  2. Notwithstanding clause 9.4, if Care Friends has not received any payment within 14 days after the due date, and without prejudice to its other rights and remedies :
     1. Care Friends may, without liability to the Customer, disable the Customer's password, account and access to all or part of the Services and Care Friends shall be under no obligation to provide any or all of the Services while the Fees concerned remain unpaid; and
     2. interest shall accrue on a daily basis on such due amounts at an annual rate equal to 4% over the the Benchmark Intertest Rate (as stipulated by the Australian Taxation Office), commencing on the due date and continuing until fully paid, whether before or after judgment.
  3. All amounts and fees stated or referred to in this agreement:
     1. shall be payable in Australian dollars; and
     2. are exclusive of all taxes.
  4. Care Friends shall be entitled to amend the Fees, at the start of each Renewal Period upon 30 days' prior notice to the Customer.
  5. Where the Customer terminates this agreement in accordance with clause 14.1.1 Care Friends will provide the Customer with a pro rata refund of the Fees in respect of the remaining portion of the Subscription Term.
  6. Unless otherwise expressly stated, all amounts payable through your use of this site are expressed to be exclusive of GST. For these purposes, the term "GST" has the meaning given to it in the A New Tax System (Goods and Services Tax) Act 1999 (Cth).
  7. You are responsible foy any GST that we must pay on the supply of the Services.

1. Intellectual Property
   1. Copyright

In these Website Terms of Use, the term **"Proprietary Content"** means:

* the Site and App;
* all of their content (including all of the text, graphics, designs, software, data, sound and video files and other information contained in the site and the App, and the selection and arrangement thereof); and
* all software, systems and other information owned or used by the Company in connection with the products and services offered through the Site and the App (whether hosted on the same server as the Site and App or otherwise).

All Proprietary Content is the property of the Company or its licensors (as applicable) and is protected by Australian and international copyright laws. You must not reproduce, transmit, republish or prepare derivative works from any of the Proprietary Content, except as expressly authorised by these Website Terms of Use or with the prior written consent of the Company or other copyright owner (as applicable).

You may download and print out content from this Site only for your own personal and non-commercial use and provided that you do not remove or modify any copyright, trademark or other proprietary notices.

10.2 Trademarks

The look and feel of this Site (including all button icons, scripts, custom graphics and headers) are the trademarks, service marks and/or trade dress of the Company. These trademarks, service marks and trade dress may not be used, copied or imitated, in whole or in part, without the prior written consent of the Company.

10.3 User Content

In these Website Terms of Use, the term **"User Content"** means any and all content that is submitted, posted or otherwise added to this site by any user, such as comments, forum posts, chat room messages, reviews, ratings and feedback.

This Site contains some features that enable you and other users to upload User Content. The Company reserves the right to display, refuse to display, remove and/or amend all or any part of any User Content at its absolute discretion. In respect of any User Content that you upload, you:

* represent and warranty to the Company that your sharing of that User Content does not infringe any copyright or other legal right of any other person; and
* grant to the Company a worldwide, non-exclusive, royalty-free, perpetual, irrevocable, sub-licensable and transferable license to use, reproduce, distribute, modify, adapt, prepare derivative works of, publicly display, publicly perform and otherwise exploit all or any part of that User Content in any way at the Company’s absolute discretion.

10.4 Copyright claims

If you believe that our Site contains any material that infringes upon any copyright that you hold or control, or that users are directed through a link on this site to a third party website that you believe is infringing upon any copyright that you hold or control, you may send a notification of such alleged infringement to us in writing.

Such notification should identify the works that are allegedly being infringed upon and the allegedly infringing material and give particulars of the alleged infringement. In response to such a notification, we will give a written notice of a claim of copyright infringement to the provider of the allegedly infringing material. If the provider of that material does not respond to us in writing denying the alleged infringement within 14 days after receipt of that notice, we will remove or block the allegedly infringing material as soon as is reasonably practicable. If the provider of that material responds to us in writing denying the alleged infringement, we will, as soon as is reasonably practicable, send a copy of that response to the original notifying party.

If the original notifying party does not, within a further 14 days, file an action seeking a court order against the provider of the allegedly infringing material, we may restore any removed or blocked material at our discretion. If the original notifying party files such a legal action, we will remove or block the allegedly infringing material pending resolution of that legal action.

1. Confidentiality
   1. Each party may be given access to Confidential Information from the other party in order to perform its obligations under this agreement. A party's Confidential Information shall not be deemed to include information that:
      1. is or becomes publicly known other than through any act or omission of the receiving party;
      2. was in the other party's lawful possession before the disclosure;
      3. is lawfully disclosed to the receiving party by a third party without restriction on disclosure; or
      4. is independently developed by the receiving party, which independent development can be shown by written evidence.
   2. Subject to clause 11.4, each party shall hold the other's Confidential Information in confidence and not make the other's Confidential Information available to any third party, or use the other's Confidential Information for any purpose other than the implementation of this agreement.
   3. Each party shall take all reasonable steps to ensure that the other's Confidential Information to which it has access is not disclosed or distributed by its employees or agents in violation of the terms of this agreement.
   4. A party may disclose Confidential Information to the extent such Confidential Information is required to be disclosed by law, by any governmental or other regulatory authority or by a court or other authority of competent jurisdiction, provided that, to the extent it is legally permitted to do so, it gives the other party as much notice of such disclosure as possible and, where notice of disclosure is not prohibited and is given in accordance with this clause 11.4, it takes into account the reasonable requests of the other party in relation to the content of such disclosure.
   5. The Customer acknowledges that details of the Services, and the results of any performance tests of the Services, constitute Care Friends’ Confidential Information.
   6. Care Friends acknowledges that the Customer Data is the Confidential Information of the Customer.
   7. Neither party shall be responsible for any loss, destruction, alteration or disclosure of Confidential Information caused by any third party.
   8. The above provisions of this clause 11 shall survive termination of this agreement, however arising.
2. Indemnity
   1. You indemnify and hold harmless the Company and its officers, employees, agents, consultants, licensors, partners and affiliates from and against any losses, liabilities, costs, expenses or damages (including actual, special, indirect and consequential losses or damages of every kind and nature, including all legal fees on a solicitor-client basis) suffered or incurred by any of them due to, arising out of, or in any way related to (directly or indirectly):

* any material or information that you submit, post, transmit or otherwise make available through this site;
* your use of, or connection to, this site; or
* your negligence or misconduct, breach of these Website Terms of Use or violation of any law or the rights of any person.

1. Disclaimer of Warranties

TO THE MAXIMUM EXTENT PERMITTED BY LAW, THE COMPANY AND ITS OFFICERS, EMPLOYEES, AGENTS, CONSULTANTS, LICENSORS, PARTNERS AND AFFILIATES EXPRESSLY DISCLAIM ALL CONDITIONS, REPRESENTATIONS AND WARRANTIES (WHETHER EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE) IN RELATION TO THIS SITE AND ANY PRODUCTS AND/OR SERVICES PURCHASED OR OBTAINED THROUGH THIS SITE, INCLUDING ANY IMPLIED WARRANTY/GUARANTEE OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT.

This site is provided strictly on an "as is" basis. To the maximum extent permitted by law, the Company and its officers, employees, agents, consultants, licensors, partners and affiliates make no representation, warranty or guarantee as to the reliability, timeliness, quality, suitability, truth, availability, accuracy or completeness of this site or any of its content, and in particular do not represent, warrant or guarantee that:

* the use of this site will be secure, timely, uninterrupted or error-free or operate in combination with any other hardware, software, system or data;
* this site will meet your requirements or expectations;
* anything on this site, or on any third-party website referred or linked to in this site, is reliable, accurate, complete or up-to-date;
* the quality of any products, services, information or other material purchased or obtained through this site will meet any particular requirements or expectations;
* errors or defects will be corrected; or
* this site or the servers that make it available are free of viruses or other harmful components.

1. Limitation of liability

14.1 Exclusion of liability

To the maximum extent permitted by law, the Company and its officers, employees, agents, consultants, licensors, partners and affiliates exclude all liability to you or any other person for any loss, cost, expense, claim or damage (whether arising in contract, negligence, tort, equity, statute or otherwise, and for any loss, whether it be consequential, indirect, incidental, special, punitive, exemplary or otherwise, including any loss of profits, loss or corruption of data or loss of goodwill) arising directly or indirectly out of, or in connection with, these Website Terms of Use or the use of this site by you or any other person.

14.2 Remedies limited

To the maximum extent permitted by law, the Company and its officers, employees, agents, consultants, licensors, partners and affiliates expressly limit their liability for breach of any non-excludable condition or warranty/guarantee implied by virtue of any legislation to the following remedies (the choice of which is to be at the Company's sole discretion):

* the supply of the services again; or
* the payment of the cost of having the services supplied again.

14.3 Release

You agree that your use of this site is at your own discretion and risk. You agree to release the Company and its officers, employees, agents, consultants, licensors, partners and affiliates from any claim, demand or cause of action that you may have against any of them arising from these Website Terms of Use or the use of this site by you or any other person. The Company may plead this release as a bar and complete defence to any claims or proceedings.

14.4 Force majeure

To the maximum extent permitted by law, and without limiting any other provision of these Website Terms of Use, the Company excludes liability for any delay in performing any of its obligations under these Website Terms of Use where such delay is caused by circumstances beyond the reasonable control of the Company, and the Company shall be entitled to a reasonable extension of time for the performance of such obligations.

1. Term and termination
   1. This agreement shall, unless otherwise terminated as provided in clause 9.4 or this clause 15, commence on the Effective Date and shall continue for the Initial Subscription Term and, thereafter, this agreement shall be automatically renewed for successive periods of the Renewal Period, unless:
      1. The Customer notifies Care Friends of termination, either in writing or via the web portal, in which case this agreement shall terminate immediately.
      2. Care Friends notifies the Customer of termination, either in writing or via the web portal, no less than 30 days before the end of the Initial Subscription Term or any Renewal Period, in which case this agreement shall terminate upon the expiry of the applicable Initial Subscription Term or Renewal Period; or
      3. otherwise terminated in accordance with the provisions of this agreement;

and the Initial Subscription Term together with any subsequent Renewal Periods shall constitute the **Subscription Term**.

* 1. Without affecting any other right or remedy available to it, either party may terminate this agreement with immediate effect by giving written notice to the other party if:
     1. the other party fails to pay any amount due under this agreement on the due date for payment and remains in default not less than 14 days after being notified in writing to make such payment;
     2. the other party commits a material breach of any other term of this agreement which breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of 14 days after being notified in writing to do so;
     3. the other party suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986, as if the words "it is proved to the satisfaction of the court" did not appear in sections 123(1)(e) or 123(2) of the Insolvency Act 1986;
     4. the other party commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors other than for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party;
     5. a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of that other party other than for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party;
     6. an application is made to court, or an order is made, for the appointment of an administrator, or if a notice of intention to appoint an administrator is given or if an administrator is appointed, over the other party;
     7. the holder of a qualifying floating charge over the assets of that other party has become entitled to appoint or has appointed an administrative receiver;
     8. a person becomes entitled to appoint a receiver over the assets of the other party or a receiver is appointed over the assets of the other party;
     9. a creditor or encumbrancer of the other party attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of the other party's assets and such attachment or process is not discharged within 14 days;
     10. any event occurs, or proceeding is taken, with respect to the other party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 14.2.3 to clause 14.2.9 (inclusive); or
     11. the other party suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business;
  2. On termination of this agreement for any reason:
     1. all licences granted under this agreement shall immediately terminate and the Customer shall immediately cease all use of the Services, Documentation and Care Friends Trade Marks;
     2. each party shall return and make no further use of any equipment, property, Documentation and other items (and all copies of them) belonging to the other party;
     3. the Customer shall have 10 days from the effective date of termination to download any Customer Data from the Services. On expiry of the 10 day period Care Friends will destroy or otherwise dispose of any of the Customer Data in its possession in accordance with clause 5.7.5; and
     4. any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination, including the right to claim damages in respect of any breach of the agreement which existed at or before the date of termination shall not be affected or prejudiced.

1. Notices
   1. Any notice required to be given under this agreement shall be in writing and shall be delivered by hand or sent by pre-paid first-class post or recorded delivery post to the other party at its address set out in this agreement, or such other address as may have been notified by that party for such purposes, or sent by email to the other party's email address as may have been notified to that party for such purposes.
   2. A notice delivered by hand shall be deemed to have been received when delivered (or if delivery is not in business hours, at 9:00 am on the first business day following delivery). A correctly addressed notice sent by pre-paid first-class post or recorded delivery post shall be deemed to have been received at the time at which it would have been delivered in the normal course of post. A notice sent by email shall be deemed to have been received at the time of transmission (as shown by the timed printout obtained by the sender) subject to no undeliverable receipt being received.
2. General

17.1 Interpretation

In these Website Terms of Use, the following rules of interpretation apply:

* headings are for reference purposes only and in no way define, limit or describe the scope or extent of any provision in these Website Terms of Use;
* these Website Terms of Use may not be construed adversely against the Company solely because the Company prepared them;
* the singular includes the plural and vice-versa;
* a reference to a "person" includes an individual, a firm, a corporation, a body corporate, a partnership, an unincorporated body, an association, a government body or any other entity; and
* the meaning of general words is not limited by specific examples introduced by "including", "for example", "in particular" or similar expressions.

17.2 Notifications

The Company may provide any notification for the purposes of these Website Terms of Use by email and/or by adding the notification into your user control panel.

17.3 Costs

Except as specifically provided in these Website Terms of Use, each party must bear its own legal, accounting and other costs associated with these Website Terms of Use.

17.4 Assignment

You may not assign, transfer or sub-contract any of your rights or obligations under these Website Terms of Use without the Company's prior written consent. Your registration with this site is personal to you and may not be sold or otherwise transferred to any other person.

The Company may assign, transfer or sub-contract any of its rights or obligations under these Website Terms of Use at any time without notice to you.

17.5 No waiver

Waiver of any power or right under these Website Terms of Use must be in writing signed by the party entitled to the benefit of that power or right and is effective only to the extent set out in that written waiver. Any failure by the Company to act with respect to a breach by you or others does not waive the Company's right to act with respect to that breach or any subsequent or similar breaches.

17.6 Severability

The provisions of these Website Terms of Use are severable and, if any provision of these Website Terms of Use is held to be illegal, invalid or unenforceable under present or future law, such provision may be removed and the remaining provisions shall be enforced.

17.7 Variation

The Company reserves the right to amend these Website Terms of Use and any other policy on this site at any time in its sole discretion and any such changes will, unless otherwise noted, be effective immediately. Your continued usage of this site will mean you accept those amendments. We reserve the right, without notice and at our sole discretion, to change, suspend, discontinue or impose limits on any aspect or content of this site or the products/services offered through this site.

You may only vary or amend these Website Terms of Use by written agreement with the Company.

17.8 Governing law and jurisdiction

These Website Terms of Use will be governed in all respects by the laws of Queensland. The parties irrevocably submit to the non-exclusive jurisdiction of the courts of Queensland and the courts of appeal from them.

17.9 Legal capacity to transact

If you are under 18 years of age, you cannot place orders through this site. By using this site you represent and warrant to the Company that you are over the age of 18 years. Should the Company suffer any damage or other losses as a result of a transaction entered into by a minor, we reserve the right to seek compensation for such losses from his/her parents or guardians.