

## PRIVACY UNDERTAKING AND WEBSTER-PAK® REMINDER APP TERMS OF USE

**Between:** Manrex Pty Ltd t/a Webstercare (ABN: 63 074 388 088 of 17-19 Moore Street, Leichardt, NSW 2040, Australia (“Supplier”))

**And:** The Recipient (“Recipient” includes any of the Recipient’s related entities, directors, officers and employees and associates)

### Background

- A. The Recipient wishes to avail itself of the Webster-pak® Reminder App (WRA).
- B. During the use of the WRA, there will be disclosure of Personal Information to and by the Recipient, some of which is held on the Supplier’s website.
- C. The Personal Information has unique value to the parties who have obligations to keep the Personal Information secure.
- D. The parties will be prejudiced by any unauthorised use or disclosure of the Personal Information, and may suffer financial loss as a result of unauthorised disclosure or unauthorised use of the Personal Information.

### This Undertaking provides

#### 1. Interpretation

In this Undertaking, the following words mean:

- **APP** or **Australian Privacy Principles** means a clause contained in Schedule 1 of the Privacy Act. A reference in this Undertaking (and in Annexures) to an Australian Privacy Principle by number is a reference to the corresponding clause of Schedule 1 with that number.
- **Discloser** means a person who discloses Personal Information, and includes the patient under the Recipient’s care.
- **WRA** means the **Webster-pak Reminder App** being the Supplier’s mobile application to be used by patients, their appointed support carers, treating doctors and their appointed pharmacists as a support tool to remind the patient to take medication as and when prescribed, and where linked by the patient, also to notify the patient’s carer. Where accepted by user, also integrates with the Medication Compliance Monitor (MCM), details of which are set out in the Mobile WRA terms [see page 2-3 below] which forms part of this Undertaking.
- **Personal Information** has the meaning as defined in the Privacy Act and includes *Health Information* that relates to any person whose information is disclosed to or accessible from, or by using the WRA.
- **Privacy Act** means the *Privacy Act 1988* (Cth). All words and phrases in *italics* shall have the meaning as set out in the Privacy Act.
- **Privacy Law** means the *Privacy Act* and any other legislation, guidelines, principles, industry codes and policies issued under the Privacy Act relating to the handling of Personal Information including in relation to Medicare Benefits and

Pharmaceutical Benefits and all other laws in Australia which relate to the privacy, protection, collection (in any manner), use, handling, disclosure, quality and security of Personal Information including State and Territory health records legislation and the *National Health Act 1953* (Cth) as they are from time to time applicable to the parties.

- **Purpose** means the use of the WRA only for the purpose of assisting the patient and as set out in the WRA Terms of Use to which this Privacy undertaking is annexed.

#### 2. Use of Personal Information

- 2.1 The Recipient and Supplier must use the Personal Information that it accesses only for the Purpose, and must not use the Personal Information for any other purpose unless otherwise agreed between Recipient, the Discloser and Supplier (as the case may be) or where authorised or required by law.

#### 3 Privacy

- 3.1 Without limiting any obligation of the parties under any Privacy Law, the parties must themselves, and must ensure that their officers, employees and contractors comply with the Privacy Law in relation to their collection and handling of Personal Information.  
Supplier’s Privacy Statement is found here:  
<https://www.webstercare.com.au/privacy-policy>
- 3.2 The parties acknowledge that if they, or their employees and/or contractors fail to comply with the APP in relation to Personal Information obtained from the other, the other party will suffer serious damage including damage to its reputation.
- 3.3 Without limiting this clause 3, the parties must, in relation to Personal Information obtained or held by it in connection with this Undertaking:
  - (a) take all reasonable steps (including effecting and maintaining appropriate technical and organisational measures) to ensure that the Personal Information is protected against misuse, interference and loss, and from unauthorised access, modification or disclosure;
  - (b) ensure that only those personnel needing access to the Personal Information are authorised to access the Personal Information;
  - (c) ensure that only authorised personnel have access to the Personal Information;
  - (d) use the Personal Information only for the purposes of fulfilling its obligations under this Undertaking;
- 3.4 The parties must promptly notify each other if they become aware that:
  - (a) disclosure of Personal Information may be required by law; or
  - (b) any of the obligations in clauses 3.2 and/or 3.3 have been breached.

3.5 The use of the WRA is restricted to the patients, their appointed carers, doctors and other authorised health professionals and their appointed pharmacists.

**4. Ownership of WRA**

4.1 The Recipient acknowledges that all of the intellectual property including copyright that subsists in any part of the WRA except for data, including Personal Information, shall at all times remain the absolute property of Supplier.

**5. Infringement of Privacy**

5.1 If the parties learn or believe that:

- (a) any unauthorised person has come into possession of any part of the Personal Information;
- (b) any unauthorised person is doing anything in contravention of rights that attach to and arise from the Personal Information,

they must immediately report full particulars to the other party, and must provide to the other party all reasonable assistance and information that the other party may request with respect to that information.

**6. Document Destruction**

6.1 The parties agree that records containing personal information may be destroyed or permanently de-identified when no longer needed for any purpose for which the information may be used or disclosed under the Privacy Act.

6.2 The parties will supply each other upon written request a destruction certificate.

6.3 The parties will establish and document retention policy setting out how documents are to be destroyed in a safe and secure manner.

**7 Indemnity**

7.1 The Recipient indemnifies and agree to keep the Supplier indemnified from and against any loss or damage it suffers (including special, direct, indirect or consequential, including consequential financial loss) arising out of any unauthorised use or disclosure of any Personal Information by the other party in breach of this Undertaking. The Recipient's obligation to indemnify under this clause 7 is a continuing obligation separate and independent of other obligations, and shall survive the expiration or termination of this Undertaking.

**8. No assignment**

8. This Undertaking may not be assigned by any party.

**9. Agreement of parties to Privacy and WRA Terms of Use**

This Undertaking and agreement to the WRA Terms of Use, shall be effective when accepted electronically or otherwise by the patient.

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**Terms of Use for Webster-pak Reminder App (WRA)**

1. The **Webster-pak Reminder App** (WRA) mobile application and associated software, applications, its sub-domain, related websites ("WRA") is owned and operated by Manrex Pty Ltd t/a Webstercare (Webstercare). By using the WRA, you are agreeing to the following Terms of Use and you make the Privacy Undertakings, forming part of this Terms of Use.
2. If you do not accept these Terms of Use and the terms of Privacy Undertaking, you must not access the WRA or use or associate materials from it.
3. Parts of the WRA may have specific terms and conditions of use which apply in addition to these Terms of Use and by accessing those parts of the WRA, you also agree to those additional terms and conditions of use.
4. Webstercare may review and change the Terms of Use at any time and without notice.

**Copyright and trade marks**

5. All the copyright and other intellectual property rights subsisting in this WRA and material contained on its related websites are owned by Webstercare and are protected by the laws of Australia.
6. The WRA may contain or display trademarks owned by Webstercare, nothing contained in this WRA grants any licence or right of use of any trade mark displayed on the WRA.

**WRA use**

7. This WRA is intended to be used by patients, their appointed support carers, doctors, other health professionals and patient's appointed pharmacists as a support tool to be used in conjunction with the Webster-Pak to remind the patient to take medication as and when prescribed, and where linked by the patient, also notify the patient's carer. The use of the WRA is restricted to the patients, their appointed carers and their appointed pharmacists.
8. Content on the WRA is not professional advice and is available subject to the following terms:
  - a. Webstercare retains its intellectual property rights;
  - b. You may use the WRA and its content to the extent permitted by Webstercare, and provided that you comply with: these Terms of Use, the Privacy Undertaking; additional terms and conditions on the WRA; and any applicable third-party licenses or agreements.
  - c. You covenant and agree that you will not use any information, data, or materials of any third-party except for the purpose of assisting the patient.
  - d. Where data or information is transmitted from one party to the other, each party will take all measures necessary to protect the security, confidentiality, and protection of the data in general from any interference, malicious or otherwise. All protection measures shall be kept up-to-date and in full working order.
  - e. In addition to this Agreement, the parties will adhere to

and comply with the Privacy undertakings of which this agreement forms part and forming part of this Agreement, ("Privacy Undertakings")

- f. You consent to Webstercare collecting, uploading, or storing personal data about users of the WRA, for the purpose of this agreement.
  - g. You consent to your personal information being stored on Webstercare's assigned server.
9. In accessing and using the WRA and its content you must not:
- a. violate any applicable laws or access or use the WRA for any unlawful purpose;
  - b. distribute viruses, spyware, corrupted files or any other similar software or programs that may damage the operation of any computer hardware or software;
  - c. collect or store personal data about other users of the WRA; or
  - d. engage in any other conduct that inhibits any other person from accessing the WRA.

#### Disclaimers and limitations of liability

10. Subject to any express written agreement between you and Webstercare to the contrary and to the fullest extent permitted by law:
- a. the WRA and its content are provided on an 'as is' basis;
  - b. you use them at your own risk; and
  - c. Webstercare disclaims all express or implied warranties of any kind including, without limitation, as to accuracy, adequacy, completeness, merchantability, fitness for a particular purpose and non-infringement of third-party rights.
  - d. Where legislation implies any condition or warranty which cannot be excluded, Webstercare's liability under any such condition or warranty will be limited to:
    - i. in the case of goods, the replacement of the goods, the supply of equivalent goods, the repair of such goods, the payment of the cost of replacing the goods or of acquiring equivalent goods, or the payment of the cost of having the goods repaired; and
    - ii. if the breach relates to services, the supplying of those services or the payment of the cost of having the services re-supplied.
  - e. In no event will Webstercare be liable for any direct or indirect loss or damage whether through negligence or otherwise (including, without limitation, special, consequential or exemplary damages; damages for loss of profits, goodwill, loss of data; or other intangible losses) suffered by you or any other person as a result of, or in connection with your use of the WRA, its content or linked websites, or any data, dispensing or prescription errors by the pharmacist.

#### Termination

11. Webstercare reserves the right to, without notice:

- a. terminate your access to the WRA;
- b. prevent access to the WRA by you or any user or group of users;
- c. intercept, remove or alter any content stored on the WRA.
- d. Exercise of these rights will not prejudice or affect the accrued rights, claims or liabilities of Webstercare under these Terms of Use.

#### Governing law

12. The laws of New South Wales, Australia govern these Terms of Use, and the parties irrevocably submit to and consent to be bound by that jurisdiction.

These Terms of Use form part of the Privacy Undertakings, shall be binding on the parties when the Privacy Undertaking is accepted electronically or otherwise by the patient,