

# TERMS & CONDITIONS

The current version of the Privacy policy is available at

<http://www.iLungScan.com>

These Terms of Service govern the relationship between you and Heartweb regarding the use of the Application. By clicking 'Accept' when downloading this application you agree to be bound by these terms.

## iLungScan™ Terms of Service

Heartweb Pty Ltd, ACN 146 184 812 (**Heartweb** or **we**) is the provider of the iLungScan™ application and service (the Application).

The terms of this agreement govern the relationship between you and Heartweb regarding the use of the Application. By clicking 'Accept' when downloading this application you agree to be bound by these terms.

### *A - Legal Compliance*

You may use the Application only in compliance with our Privacy Policy and these Terms of Service and applicable local, state, national and international laws, rules and regulations.

When using the Application you will collect personal details and health information from your patient (**Patient Information**). When you use the Application, that Patient Information will be transferred to us and we may store the Patient Information overseas. **You are solely responsible** for obtaining the consent of your patients in every case to the transfer to us and the storage overseas and for compliance with any legislation applicable to the Patient Information, including legislation concerning the collection, use, disclosure, quality, security, confidentiality, retention, access, identification and transfer (including overseas transfer) of such Patient Information.

You may only use the Application to disclose an iLungScan™ Report to a third party where that disclosure is for the purpose of providing a health service to the patient and you have that patient's consent to the disclosure. You must ensure that any such disclosure complies with applicable local, state, national and international laws, rules and regulations.

By using the Application, you represent and warrant that:

- (a) you are not located in a country that is subject to a U.S. Government embargo; and
- (b) you are not listed on any U.S. Government list of prohibited or restricted parties.

### *B - General Conditions*

You will be required to register an account before you can access and use the Application. You must be over the age of 18 to register a user account and access this Application (**Account**). If we suspect that you are under the age of 18, we reserve the right to refuse any access to or use of the Application.

## ***C - Use of the Application***

1. You agree that you will be solely responsible for your use of the Application and for any communication you post in any private messages you send to other users via the Application.
2. You must not have more than one Account and will not create an account using false identity or information, or on behalf of someone other than yourself.
3. You must not use your Account to engage in any illegal conduct or activity.
4. You must not rent, lease, sell, trade, gift, bequeath or otherwise transfer your Account to anyone without Heartweb's written permission.
5. You must not access or use an Account which has been rented, leased, sold, traded, gifted, bequeathed, or otherwise transferred from the Account creator without Heartweb's written permission.
6. You agree that upon accepting an invitation to view a patient's information shared with you by another User through the Application, you accept full responsibility for the confidentiality of that information, must only view that information for the purpose of providing a health service to that patient and must not disclose the information to any other person.

## ***D - Password***

1. You are solely responsible for maintaining the confidentiality of your login password. You must not disclose your password to any third party, nor let anyone else access your account or do anything else that might jeopardise the security of your password.
2. You must ensure that your Account is not used or accessed by minors under the age of 18. You accept full responsibility for any unauthorised use of the Application by minors.
3. In the event you become aware of or suspect any breach of security, including without limitation any loss, theft or unauthorised disclosure of your password, you are responsible for immediately notifying Heartweb and modifying your password accordingly.
4. You are solely responsible for any charges incurred using your Account.

Heartweb reserves the right to remove, reclaim or force forfeiture of any username and Account at any time and for any reason, including but without limitation to, usernames which are offensive, violate intellectual property rights, or which may mislead other users.

## ***E - Grant of Limited Licence to Use the Application***

You are granted a non-transferable licence to use the Application on any Device, in the manner permitted by these Terms of Service and the Usage Rules set out in the Apple Store Terms of Service at: <http://www.apple.com/legal/itunes/us/terms.html#APPS>.

## ***F - Licence Restrictions***

1. **Unauthorised use or connection to Application** - You agree that you will not:

- (a) use exploits, automation software, hacks or any software designed to modify, disrupt, overburden or interfere with use and enjoyment of the Application;
- (b) institute, assist or become involved in any type of attack, including without limitation distribution of a virus or denial of service attacks using the Application;
- (c) attempt to gain unauthorised access to the Application, Accounts registered to others, servers or networks connected to the application by any means other than the user interface provided by Heartweb;
- (d) use any unauthorised third party software that accesses, intercepts or otherwise collects information from or through the Application or that is in transit from or to the Application, including any software that reads areas of RAM or streams of network traffic used by the Application;
- (e) use, facilitate, create, or maintain any unauthorised connection to the Application, including any connection to any unauthorised server that emulates the application, or any connection which uses programs, tools, or software not expressly approved by Heartweb;
- (f) reverse engineer, decompile, disassemble, decipher or otherwise attempt to derive the source code for any software or other intellectual property used to provide the application;
- (g) copy, modify or distribute rights or content from the Application
- (h) sell, lease, loan, distribute, transfer, or sub-license the Application or access thereto or derive income from the use or provision of the Application, whether for direct commercial or monetary gain or otherwise, without Heartweb's prior written consent
- (i) to use the Application as an integral part of an Education Course or Program, without Heartweb's prior written consent; or
- (j) make improper use of Heartweb's support services, including by submitting false abuse reports.

2. **Offensive or Infringing content** - You agree that you will not:

- (k) send any user-to-user private messages that are abusive, threatening, defamatory, libellous, or racially, sexually, religiously, or otherwise objectionable or offensive;
- (l) send any user-to-user private messages that contain nudity, excessive violence, or offensive subject matter or that contains a link to such content; or

(m) attempt to harass, abuse, or harm, or advocate or incite harassment, abuse, or harm of another person, group, including Heartweb employees and customer support representatives.

## ***G - Suspension and Termination of Account and Application***

1. Heartweb may limit, suspend, terminate, modify or delete Accounts or prohibit access to Heartweb services if you are, or Heartweb suspects that you are, failing to comply with any of these Terms of Service.
2. If Heartweb reasonably believes at any time that the provision of the Application to you is contrary to law or in breach of a provision of legislation, Heartweb may terminate your right to use the Application by notice to you with immediate effect. You may discontinue your use of the Application for any reason at any time.

## ***H - iLungScan™***

1. The following terms apply to Users of the iLungScan™ LITE version of the Application:
  - (a) Not applicable
2. The following terms apply to Users of the iLungScan™ version of the Application:
  - (f) The sole responsibility for maintaining patient confidentiality lies with the owner or creator of the study, including compliance with the Health Insurance Portability and Accountability Act of 1996 (HIPAA) Privacy and Security Rules
  - (g) The sole purpose for sharing a study is for valid clinical indications

## ***I - Intellectual Property and Ownership***

All right, title and interest in and to the Application are and will remain the exclusive property of Heartweb or its licensors. The Application is protected by intellectual property rights in Australia and throughout the world.

## ***J - Message Boards and User-to-User Private Messages***

1. All comments and opinions (Communication) posted on Group message boards or in user-to-user private messages are the sole responsibility of the person who originated the Communication. We have no obligation to monitor or control the Communications posted via the Application and are not responsible for such Communications.
2. We do not endorse, support, represent or guarantee the completeness, truthfulness, accuracy or reliability of any Communication posted via the Application.
3. Under no circumstances will Heartweb be liable in any way for any Communication, including any errors or omissions in any Communication, or any

loss or damage incurred as a result of the use of any Communication posted, emailed, transmitted or otherwise made available via the Application.

4. You hereby grant Heartweb a perpetual and irrevocable, worldwide, transferrable, fully paid-up and royalty free, non-exclusive, right to copy, reproduce, adapt, modify or publicly display your Communications as well as all modified and derivative works resulting from them.

5. Heartweb reserves the right to terminate any Account if you post offensive, malicious, or racist communications on a Group message board or in user-to-user private messages.

## *K - Support*

Heartweb may elect to provide you with support for the Application in its sole discretion.

## *L - Indemnity. Disclaimer of Warranties and Limitation of Liability*

Heartweb endeavours to carry out all services in connection with the Application with due care and skill, and tries to ensure that any disruption to the enjoyment of the Application is restored within a reasonable timeframe where possible.

However, to the fullest extent permissible at law, Heartweb provides the Application on an 'as is' basis and excludes all conditions, guarantees and warranties in relation to the Application or your use of the Application whether based in statute, common law or otherwise.

If a statutory condition, warranty or guarantee applies in your jurisdiction which cannot be excluded then, to the fullest extent permitted by law, Heartweb's liability for the breach of any non-excludable condition, warranty or guarantee is limited, at the discretion of Heartweb, to either the supply of the relevant services again or the payment of the cost of having the services supplied again.

To the fullest extent possible at law:

1. Heartweb does not warrant the performance, quality, completeness, reliability, timeliness and accuracy of the content which you access through the Application;
2. Heartweb does not warrant the security of the data entered into the Application by you, including the Patient Information;
3. Heartweb will have no responsibility or liability in relation to any indirect, incidental, special or consequential damages or for any loss of profits, damage to reputation, damage to your software or hardware, loss of use, data corruption or loss of data, arising from your use of or access to the Application;
4. Heartweb will have no responsibility or liability in relation to any unauthorised use of the Application;
5. Heartweb does not warrant that functions of the Application or hyperlinks which you access through the Application will be secure, uninterrupted or error free, that defects will be corrected or that

Heartweb or the server that makes it available, are free of viruses, worms, bugs, or other code that manifests contaminating or destructive properties;

6. you indemnify Heartweb and each of its directors, officers, employees and agents against any action, claim, loss, damage, cost or expense which any of them suffer or incur which arises from or otherwise in connection with your use of the Application; and

7. you agree that you will not be entitled to refunds or other compensation based on any of the issues referred to in paragraphs L. 1 to L.6 other than as explicitly provided in this Agreement.

### ***M - Member Disputes***

You are solely responsible for your interactions with other users of the Application and any other parties with whom you interact through the Application. Heartweb has no obligation to become involved in any way with these disputes.

### ***N - Terms of Service Changes***

Although most changes are likely to be minor, Heartweb may change its Terms of Service from time to time, and in Heartweb's sole discretion. Any such change will apply only to reports or other Patient Information which you transfer to us after the date of such change.

Heartweb encourages users and visitors to check this page frequently for any changes to its Terms of Service. Your continued use of this Application or website after any change in these Terms of Service will constitute your acceptance of such change with respect to any reports or other Patient Information which you transfer to us after the date of such change.

### ***O - Third Party Beneficiary***

By using the Application you agree that Apple and Apple's subsidiaries will have the right (and will be deemed to have accepted the right) to enforce these Terms of Service against you as a third party beneficiary to these terms and conditions.

However, Apple will not be responsible for addressing any claims instigated by you relating to the Application, including, but not limited to:

1. product liability claims;
2. any claim that the Application fails to conform to any applicable legal requirement; and
3. claims arising under consumer protection or similar legislation.

### ***P - Severability***

You and Heartweb agree that if any portion of our Privacy Policy or these Terms of Service is found illegal or unenforceable, in whole or in part by any court of competent jurisdiction, such provision will be ineffective solely to the extent of such determination of

invalidity without affecting the remaining provisions of the Terms, which will continue to be in full force and effect.

### ***Q - Governing Law***

Our Privacy Policy and Terms of Service are governed by and interpreted in accordance with the laws applicable in the State of Victoria, Australia. You hereby agree to submit all disputes arising out of your use of the Application or concerning our Privacy Policy and Terms of Service to the exclusive jurisdiction of the courts of Victoria, including any disputes arising out of claims you have made against any of Heartweb's directors, officers, employees and agents.

### ***R - Complaints or Further Information***

If you have any complaints or require further information with respect to the Application, please direct all communication to:

Name: Support Heartweb

Telephone/email [support@heartweb.com](mailto:support@heartweb.com)

Heartweb Pty Ltd is an authorised user of the iLungScan™ trade mark.