



Terms and Conditions

LifeGuard Mobile Applications

The following terms and conditions apply to your use of the **LifeGuard SmartMobile**, **LifeGuard SmartWatch**, or **LifeGuard SmartCarer** mobile applications, together referred to herein as the **Mobile Apps**. Last updated: 27th August 2020.

1. Agreement to Terms:

- 1.1 Please read these Terms and conditions (“Terms”) carefully before using the LifeGuard SmartMobile, LifeGuard SmartWatch, or LifeGuard Family & Carers mobile applications (“Mobile Apps”), and monitoring service (the “Service”) operated by C Rafin & Co Pty Ltd, trading as the INS Group / INS LifeGuard (“us”, “we”, or “our”).
- 1.2 These Terms and Conditions constitute a legally binding agreement made between you, whether personally or on behalf of an entity (“you”) and INS LifeGuard, concerning your access to and use of the Mobile Apps.
- 1.3 You agree that by accessing the Mobile Apps, you have read, understood, and agree to be bound by all of these Terms.
- 1.4 **If you do not agree with all of these Terms and conditions, then you are expressly prohibited from using the Mobile Apps and you must discontinue use immediately.**
- 1.5 We reserve the right, in our sole discretion, to make changes or modifications to these Terms at any time and for any reason. We will alert you about any changes by updating the revision date of these Terms and Conditions and you waive any right to receive specific notice of each such change.
- 1.6 It is your responsibility to periodically review these Terms to stay informed of updates. You will be subject to, and will be deemed to have been made aware of and to have accepted, the changes in any revised Terms by your continued use of the Mobile Apps after the date such revised Terms are posted.
- 1.7 The information provided on the Mobile Apps is not intended for distribution to or use by any person or entity in any jurisdiction or country where such distribution or use would be contrary to law or regulation or which would subject us to any registration requirement within such jurisdiction or country. Accordingly, those persons who choose to access the Mobile Apps from other locations do so on their own initiative and are solely responsible for compliance with local laws, if and to the extent local laws are applicable.
- 1.8 The Mobile Apps are intended for users who are at least 18 years of age. All users who are minors in the jurisdiction in which they reside (generally under the age of 18) must have the permission of, and be directly supervised by, their parent or guardian to use the Mobile Apps. If you are a minor, you must have your parent or guardian read and agree to these Terms prior to your use of the Mobile Apps.

2. Monitoring Service:

- 2.1 You understand that the nurses in our Emergency Response Centre will monitor and respond to emergency alarms / requests for assistance resulting from pressing the HELP button.
- 2.2 INS LifeGuard does not monitor the battery or any network or other disconnection of the service. Ensuring the devices the Mobile Apps are installed on remain charged and connected is your responsibility.

- 2.3 INS will not supply, to yourself or any third party, copies of any client file notes, voice recordings or other records made and/or held by INS unless we are compelled to do so pursuant to applicable law, statute, regulation or court order.
- 2.4 INS will at all times be acting solely as your agent in notifying any emergency service or emergency contact and no liability will be accepted by INS for charges made by an emergency service or emergency contact following a request for assistance by INS pursuant to an alarm call.

3. Subscription Fees:

- 3.1 Some parts of the Service are billed on a subscription basis ("Subscription(s)"). You will be billed in advance on a monthly basis for the cost of these Subscriptions.
- 3.2 In the event the end user no longer requires the service, we must be notified promptly to avoid invoicing of the next billing cycle. We are not able to backdate or refund monitoring fees where we've not been advised of such changes promptly.
- 3.3 SIM charges (if applicable) are incurred monthly and will apply for any usage during that month. No refunds or credits for partial months will be refunded upon cancellation.

4. Equipment and Networks:

- 4.1 The provision of the Services and the Mobile Apps does not include the provision of a mobile telephone or handheld device or other necessary equipment to access the Mobile Apps or the Services.
- 4.2 To use the Mobile Apps or the Services, you will require Internet connectivity and appropriate telecommunication links. You acknowledge that the terms of agreement with your respective mobile network provider ("Mobile Provider") will continue to apply when using the Mobile Apps. As a result, you may be charged by the Mobile Provider for access to network connection services for the duration of the connection while accessing the Mobile Apps or any such third party charges as may arise. You accept responsibility for any such charges that arise.

5. GPS, Location Alerts and Notifications:

- 5.1 You understand that in order to determine your location (to send assistance in an emergency or access GPS location and tracking services), the GPS / Location function of your mobile phone or watch must be turned on.
- 5.2 You agree to receive pre-programmed notifications ("Location Alerts") on the Mobile Apps if you have turned on locational services on your mobile telephone, watch or other handheld devices.

6. User Representations:

- 6.1 By using the Mobile Application, you represent and warrant that:
 - a. All registration information you submit will be true, accurate, current, and complete;
 - b. You will maintain the accuracy of such information and promptly update such registration information as necessary;
 - c. You have the legal capacity and you agree to comply with these Terms;
 - d. You are not a minor in the jurisdiction in which you reside, or if a minor, you have received parental permission to use the Mobile Apps;
 - e. You will not access the Mobile Apps through automated or non-human means, whether through a bot, script or otherwise;
 - f. You will not use the Mobile Apps for any illegal or unauthorised purpose; and
 - g. Your use of the Mobile Apps will not violate any applicable law or regulation.

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- 6.2 If you provide any information that is untrue, inaccurate, not current, or incomplete, we have the right to suspend or terminate your account and refuse any and all current or future use of the Mobile Apps (or any portion thereof).
- 6.3 You understand that radiofrequency energy from mobile devices and other technologies, including our transmitters and the LifeGuard SmartTracker, may cause interference with pacemakers. Most who wear a pacemaker can still safely use these devices by taking simple precautions such as avoiding placing or wearing them near the pacemaker (keeping them at least 15 centimetres away from your pacemaker), however it is your responsibility to consult with your doctor to be sure it's safe for you to use these technologies.
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7. User Registration:

- 7.1 You may be required to register with the Mobile Apps. You agree to keep your password confidential and will be responsible for all use of your account and password.
- 7.2 We reserve the right to remove, reclaim or change a username you select if we determine, on our sole discretion, that such username is inappropriate, obscene or otherwise objectionable.
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8. Prohibited Activities:

- 8.1 You may not access or use the Mobile Apps for any purpose other than that for which we make the Mobile Apps available. The Mobile Apps may not be used in connection with any commercial endeavours except those that are specifically endorsed or approved by us.
- 8.2 As a user of the Mobile Apps, you agree not to:
- a. Systematically retrieve data or other content from the Mobile Apps to create or compile, directly or indirectly, a collection, compilation, database or directory without written permission from us.
 - b. Use the Mobile Apps to advertise or offer to sell goods and services.
 - c. Attempt to bypass any measures of the Mobile Apps designed to prevent or restrict access to the Mobile Apps, or any portion of the Mobile Apps.
 - d. Attempt to circumvent our security or network, including any form of network monitoring, to access data not intended for you, log into a server or account you are not expressly authorised to access, or probe the security of other networks (such as running a port scan).
 - e. Engage in any automated use of the system, such as using any data mining, robots, or similar data gathering and extraction tools.
 - f. Copy or adapt the Mobile Apps' software, including but not limited to Flash, PHP, HTML, JavaScript, or other code.
 - g. Upload or transmit (or attempt to upload or transmit) viruses or Trojan horses, or any material that acts as a passive or active information collection or transmission mechanism, including without limitation, clear graphics interchange formats ("gifs"), 1x1 pixels, web bugs, cookies or other similar devices (sometimes referred to as "spyware" or "passive collection mechanisms" or "pcms").
 - h. Extract data from or hack into the Mobile Apps.
 - i. Engage in unauthorised framing of or linking to the Mobile Apps.
 - j. Decipher, decompile, disassemble or reverse engineer any of the software comprising or in any way making up a part of the Mobile Apps.
 - k. Interfere with, disrupt, or create an undue burden on the Mobile Apps or the networks or services connected to the Mobile Apps.
 - l. Trick, defraud, or mislead us and other users, especially in any attempt to learn sensitive account information such as user passwords.
 - m. Attempt to impersonate another user or person or use the username of another user.

- n. Use the Mobile Apps as part of any effort to compete with us or otherwise use the Mobile Apps and/or its content for any revenue-generating endeavour or commercial enterprise.
- o. Harass, annoy, intimidate or threaten any of our employees or agents engaged in providing any portion of the Mobile Apps or Services to you.
- p. Delete the copyright or other proprietary rights notice from any content.
- q. Use the Services or Mobile Apps in breach of these Terms and Conditions.
- r. Engage in any unlawful activity in connection with the use of the Mobile Apps or Services.

9. Disclaimer and Exclusion of Liability

- 9.1 The Mobile Apps, the Services, the information on the Mobile Apps and use of all related facilities are provided on an “as is, as available” basis without any warranties, whether express or implied.
- 9.2 To the fullest extent permitted by applicable law, we disclaim all representations and warranties relating to the Mobile Apps and its content, including in relation to any inaccuracies or omissions in the Mobile Apps, warranties of merchantability, quality, fitness for a particular purpose, accuracy, availability, non-infringement or implied warranties from course of dealing or usage of trade.
- 9.3 We will use reasonable endeavours to correct any errors or omissions as soon as practicable after being notified of them. However, we do not guarantee that the Services or the Mobile Apps will be free of faults, and we do not accept liability for any such faults, errors or omissions. In the event of any such error, fault or omission, you should report it by contact us at 1800 636 226.
- 9.4 While we may use reasonable efforts to include accurate and up-to-date information on the Mobile Apps, we make no warranties or representations as to its accuracy, timeliness or completeness.
- 9.5 We shall not be liable in contract, tort (including negligence or breach of statutory duty) or otherwise howsoever and whatever the cause thereof, for any indirect, consequential, collateral, special or incidental loss or damage suffered or incurred by you in connection with the Mobile Apps and these Terms. For the purposes of these Terms, indirect or consequential loss or damage includes, without limitation, loss of revenue, profits, anticipated savings or business, loss of data or goodwill, loss of use or value of any equipment including software, claims of third parties, and all associated and incidental costs and expenses.
- 9.6 We do not warrant that your use of the Services or the Mobile Apps will be uninterrupted and we do not warrant that any information (or messages) transmitted via the Services or the Mobile Apps will be transmitted accurately, reliably, in a timely manner, or at all. Despite that, we will try to allow uninterrupted access to the Services and the Mobile Apps. Access to the Services and the Mobile Apps may be suspended, restricted or terminated at any time.
- 9.7 We do not give any warranty that the Services and the Mobile Apps are free from viruses or anything else which may have a harmful effect on any technology.
- 9.8 We reserve the right to change, modify, substitute, suspend or remove without notice any information or Services on the Mobile Apps from time to time. Your access to the Mobile Apps and/or the Services may also be occasionally restricted to allow for repairs, maintenance or the introduction of new facilities or services. We will attempt to restore such access as soon as we reasonably can. For the avoidance of doubt, we reserve the right to withdraw any information or Services from the Mobile Apps at any time.
- 9.9 We reserve the right to block access to and/or edit or remove any material which in our reasonable opinion may give rise to a breach of these Terms and Conditions.
- 9.10 The above exclusions and limitations apply only to the extent permitted by law. None of your statutory rights as a consumer that cannot be excluded or limited are affected.
- 9.11 Notwithstanding our efforts to ensure that our system is secure, you acknowledge that all electronic data transfers are potentially susceptible to interception by others. We cannot, and do not, warrant that data transfers pursuant to the Mobile Apps, or electronic mail transmitted to and from us, will not be monitored or read by others.

10. Indemnity:

- 10.1 You agree to indemnify and keep us indemnified against any claim, action, suit or proceeding brought or threatened to be brought against us which is caused by or arising out of:
- Your use of the Services;
 - Any other party's use of the Services using your user ID;
 - Verification PIN and/or any identifier number allocated by us; and/or
 - Your breach of any of these Terms and Conditions; and
- 10.2 You further agree to pay us damages, costs and interest in connection with such claim, action, suit or proceeding.

11. Intellectual Property Rights:

- 11.1 The Mobile Apps are our proprietary property and all source code, databases, functionality, software, audio, video, text, photographs and graphics on the Mobile Apps (collectively, the "Content") and the trademarks, service marks and logos contained therein (the "Marks") are owned or controlled by us or licensed to us, and are protected by copyright and trademark laws and various other intellectual property rights.
- 11.2 Except as expressly provided in these Terms, no part of the Mobile Apps and no content or Marks may be copied, reproduced, aggregated, republished, uploaded, posted, publicly displayed, encoded, translated, transmitted, distributed, sold, licensed, or otherwise exploited for any commercial purpose whatsoever, without our express prior written permission.
- 11.3 Provided that you are eligible to use the Mobile Apps, you are granted a limited license to access and use the Mobile Apps and to download or print a copy of any portion of the Content to which you have properly gained access solely for your personal, non-commercial use.
- 11.4 We will not hesitate to take legal action against any unauthorised usage of our trademarks, name or symbols to preserve and protect our rights in the matter. All rights not expressly granted herein are reserved. Other product and company names mentioned herein may also be the trademarks of their respective owners.
- 11.5 Regardless of ownership and legal Title to the Equipment itself, these terms shall not, and shall not be deemed to, convey from Seller to Customer title of any kind to the proprietary software which we've designed and which operates the Equipment allowing the provision of our Services. The INS Group retains all rights to the software that allows the Equipment to function as expected and to communicate with the monitoring system in our Emergency Response Centre, as well as any mobile applications that interact with our alarm system. INS retains the right to amend/alter and update this software at any time and without warning. This includes the LifeGuard Intuito® software on the SmartHome IP Dialler and SmartHome Mate, as well as the LifeGuard SmartMobile app and LifeGuard SmartCarer app.

12. Modifications and Interruptions:

- 12.1 We reserve the right to change, modify, or remove the contents of the Mobile Apps at any time or for any reason at our sole discretion without notice. We also reserve the right to modify or discontinue all or part of the Mobile Apps without notice at any time.
- 12.2 We cannot guarantee the Mobile Apps will be available at all times. We may experience hardware, software or other problems, or need to perform maintenance related to the Mobile Apps, resulting in interruptions, delays or errors. We reserve the right to change, revise, update, suspend, discontinue, or otherwise modify the Mobile Apps at any time or for any reason without notice to you.
- 12.3 You agree that we have no liability whatsoever for any loss, damage or inconvenience caused by your inability to access or use the Mobile Apps during any downtime or discontinuance of the Mobile Apps. Nothing in these Terms will be construed to obligate us to maintain and support the Mobile Apps or to supply any corrections, updates or releases in connection therewith.

- 12.4 We reserve the right to amend these Terms and Conditions from time to time without notice. The revised Terms and Conditions will be posted on the Mobile Apps and shall take effect from the date of such posting. You are advised to review these terms and conditions periodically as they are binding upon you.

13. Applicable Law and Jurisdiction:

- 13.1 The Mobile Apps can be accessed from within Australia and New Zealand. As each of these places have differing laws, by accessing the Mobile Apps both you and we agree that the laws of Australia or New Zealand (as applicable), without regard to the conflicts of laws principles thereof, will apply to all matters relating of the use of the Mobile Apps.
- 13.2 You accept and agree that both you and we shall submit to the exclusive jurisdiction of the courts of Australia or New Zealand in respect of any dispute arising out of and/or in connection with these Terms and Conditions.

14. Privacy Policy

- 14.1 You acknowledge that INS LifeGuard might collect, hold, use and disclose personal information about you in accordance with their Privacy Policy. You acknowledge that you have been informed about the Privacy Policy, and acknowledge that it is available online at www.theinsgroup.com.au or you can request a copy by emailing privacy@theinsgroup.com.au.
- 14.2 We can contact your nominated family, carers and friends and report to them as appropriate if you have elected this option on the consent form which is included in the *Client Information Form* and/or the information provided when you registered your account on the Mobile Apps.
- 14.3 We reserve the right to send you (via email, SMS or in-app messages) information about products and services that may enhance the services we provide to you.
- 14.4 You agree that a copy of this document shall have the same force as the original.

15. Termination:

- 15.1 These Terms shall remain in full force and effect while you use the Mobile Apps.
- 15.2 Without limiting any other provision of these Terms, we reserve the right to, in our sole discretion and without notice or liability, deny access to and use of the Mobile Apps (including blocking certain IP addresses) to any person for any reason or for no reason, including without limitation for breach of any representation, warranty, or covenant contained in these Terms or any applicable law or regulation.
- 15.3 We may terminate your use or participation in the Mobile Apps or delete your account and any content or information you entered at any time without warning, in our sole discretion.
- 15.4 If we terminate or suspend your account for any reason, you are prohibited from registering and creating a new account under your name, a fake or borrowed name, or the name of any third party, even if you may be acting on behalf of the third party.
- 15.5 In addition to terminating or suspending your account, we reserve the right to take appropriate legal action, including without limitation pursuing civil, criminal and injunctive redress.

Your signature below, and/or your use of the Mobile Apps indicates you acknowledge that you have received these Terms and Conditions, have read and understood them, and agreed to be bound by them.

Signed by: _____

Date: _____