

# GUIDEPOST DIRECT TERMS AND CONDITIONS

Version 2 - 4 January 2016

## 1. IMPORTANT NOTICES

- 1.1. Sancreed (Pty) Ltd ("Sancreed"), a company duly incorporated in terms of the laws of the Republic of South Africa, trading as Guidepost, provides the Services under the brand Guidepost Direct.
- 1.2. This Agreement contains the terms and conditions on which Sancreed (Pty) Ltd provides the Services to you our customer.
- 1.3. This Agreement replaces all prior terms and conditions previously agreed between you and Sancreed that relate to the same subject matter as this Agreement.

## 2. DEFINITIONS

- 2.1. In this Agreement certain words and phrases appearing in Title Case are given particular meanings. These words and phrases and the meanings they are intended to have are recorded below:
  - 2.1.1. "Agreement Start Date" shall mean the date at which these Terms and Conditions were first assented to or deemed to have been assented to, either in writing or via recorded verbal consent;
  - 2.1.2. "Agreement" shall mean these Terms and Conditions together with all schedules and documents attached to these terms and conditions, as well as all amendments that may be made to these terms and conditions from time to time;
  - 2.1.3. "Channels" shall mean any physical or electronic medium for exchanging information including but not limited to face-to-face meeting, telephone, SMS, website, email and internet discussion forums;
  - 2.1.4. "Services" shall mean the provision of educational content and other data by Sancreed via Channels as more fully defined in Section 3;
  - 2.1.5. "Services Start Date" shall mean the day on which you first use the Services;
  - 2.1.6. "Payment Day" shall mean the day of the month nominated by you as the day on which Sancreed may debit your bank account with the Subscription Fee;
  - 2.1.7. "Subscription Fee" shall mean the monthly fee payable, in advance, by you in respect of access to the services, as agreed on the Agreement Start Date;
  - 2.1.8. "Guidepost Direct Website" shall mean the web pages available from [www.guidepost.net](http://www.guidepost.net);
  - 2.1.9. "Subscriber" means the natural Person who has requested access to the Services in exchange for the Subscription Fee;
  - 2.1.10. "you" and "your" means the Subscriber;
  - 2.1.11. "we", "our" and "us" means Sancreed;
  - 2.1.12. "Sancreed" means Sancreed (Pty) Ltd, a private company with registration number 2012/097434/07, and/or its employees, directors, agents, contractors, sub-contractors and appointed service providers.

## 3. SERVICES

- 3.1. Sancreed will gather various health-related and demographic data from you at various intervals. Using an analysis of that data, Sancreed will enter into a discussion with you using various Channels in order to assist you in understanding that data and provide you with further information regarding your health (a "coaching session"). Sancreed may highlight various health guidelines and health condition-related educational information specific to your situation. Any additional services available to you are described on the Guidepost Direct Website.

- 3.2. The Services are provided with the purpose of assisting people achieve their health goals through healthy life style choices and behaviour, which may include changes to diet or level of physical activity. The Services require your active engagement and participation. You should consult with your healthcare provider and keep your healthcare provider informed about your use of the Services.
- 3.3. You understand that, despite your efforts or our efforts, individual Subscribers' results will vary for a variety of reasons and Sancreed cannot guarantee that you will achieve your health goals.
- 3.4. Notwithstanding the high level of skills, training, professional qualifications and expertise, the Services are not intended nor suited to be a replacement or substitute for professional medical advice, diagnosis or treatment relative to a specific medical question or condition. As such, unless otherwise clearly and specifically stated, all information obtained through use of the Services is for reference, informational and educational purposes only.
- 3.5. Any actions you take based on information provided to you by Sancreed are entirely at your own risk. It is your obligation to discuss all uncertainties and questions that you may have with your doctor. The information provided to you by Sancreed should not be taken in isolation.
- 3.6. The Services should not be construed, considered and/or mistaken for a substitute for consulting with a medical practitioner; and/or
- do not constitute a consultation, examination and/or diagnosis; and/or
  - do not render treatment; and/or
  - do not bring about a doctor-patient relationship,
  - and, as such, the Services and Sancreed must not be mistaken for a medical practice.
- 3.7. Sancreed reserves the right to and will, at all times, in its sole and absolute discretion, have the right from time to time to vary, change, add to and/or withdraw any of the Services, subject at all times to it honouring its obligations hereunder.
- 3.8. The nature, content, features and pricing of the Services that you are subscribing for are always available from the Guidepost Direct Website. We will notify you via one or more Channels of updates to these Terms and Conditions.
- 3.9. You may not use the Services unless your Subscription Fee has been paid in full for the month on which you are attempting to use the Services. Sancreed has the right to suspend the Services to you until any outstanding amounts owed by you to Sancreed have been settled.
- 3.10. To enable fair usage of our Coaches' time and to ensure availability of our Services to all Subscribers, Sancreed reserves the right to apply a fair usage limit of six coaching sessions per Subscriber per month.
- 3.11. Sancreed will only call you on South African phone numbers and will not call you if you are using an international phone number.
- 3.12. Sancreed may send you SMS and/or email communications from time to time. You agree to receive these messages and can opt-out at any time.
- 3.13. The Services are only available to individuals over the age of 18. We will not knowingly provide the services to anyone under the age of 18.
- 3.14. You can find further information and terms & conditions of participation by emailing [direct@guidepost.net](mailto:direct@guidepost.net) or by calling 087 2300 468.
- 3.15. The Services are not to be used in an emergency. In an emergency you must contact your doctor.

#### **4. DURATION AND TERMINATION**

- 4.1. This Agreement will start on the Services Start Date and will automatically continue on a month to month basis subject to any changes which we have notified you of.

- 4.2. You may terminate this Agreement at any time and for any reason by giving Sancreed at least 20 (twenty) business days' notice in writing or via our call centre. If you do choose to terminate this Agreement you will still have to pay all outstanding amounts in respect of the Services. You will be entitled to the month that you have paid for in advance. The Services will thus terminate after the month you have paid for has ended.
- 4.3. Sancreed has the right to suspend your access to the Services should there be any outstanding Subscription Fees owing by you to Sancreed. On payment in full of the amount owing, your access to the Services will be reinstated.
- 4.4. Sancreed has the right to terminate the Services and this Agreement at any time on 20 (twenty) business days' notice to you via the Channels. At Sancreed's sole discretion, Sancreed may choose to waive any then-outstanding Subscription Fees or to demand payment of same.
- 4.5. Sancreed has the right to terminate this agreement immediately and no longer provide you the Services in case of breach by you of any of the terms of this Agreement, abuse and / or misuse of the Services or Sancreed or should you provide inaccurate or falsified information to Sancreed.
- 4.6. By using the Services, you represent and warrant to Sancreed that you have:
  - 4.6.1. Carefully read this Agreement; and
  - 4.6.2. Understand the financial commitment in subscribing for the Services; and
  - 4.6.3. Are and will at all times be in a financial position to meet your obligations in terms of the Services

## **5. CHARGES PAYABLE BY YOU AND PAYMENT TERMS**

- 5.1. The Subscription Fee shall be due and payable to Sancreed on the Payment Day of each and every subsequent month from the Agreement Start Date until termination of this Agreement. Sancreed shall request you to pay the first month's Subscription Fee in full on the Services Start Date.
- 5.2. The Subscription Fee may vary from time to time and Sancreed shall provide you with at least 20 (twenty) business days' notice of such variations before they take effect. You shall be bound to pay such varied Subscription Fee with effect from the date of publication thereof by Sancreed unless you exercise your right of termination as provided for in this Agreement.
- 5.3. You must make payment of all amounts due to Sancreed by means of a direct debit order against your banking account. You shall not be entitled to withdraw or revoke the authority of Sancreed to draw against your banking account for the duration of this Agreement without the written consent of Sancreed.
- 5.4. Unless otherwise indicated, all fees, charges and prices set out in this Agreement and/or any price list from time to time are exclusive of Value Added Tax which shall additionally be borne and paid for by you at the prevailing rate from time to time unless otherwise stated.
- 5.5. Sancreed reserves the right to charge you 2% interest per month on any outstanding amounts owing by you to Sancreed (incidental credit) as provided for by the National Credit Act.
- 5.6. You shall not transfer (whether it be by cession, assignment, encumbering or delegating) any of your rights or obligations in terms of this Agreement to any third party without the prior written consent of Sancreed.

## **6. DEBIT ORDER AUTHORITY AND MANDATE**

- 6.1. You hereby authorise Sancreed to issue and deliver payment instructions to your banker for collection against your nominated account at your bank (or any other bank or branch to which you may transfer your account) on condition that the sum of such payment instructions will never exceed your obligations as agreed to in this Agreement, and commencing on the Agreement Start Date and continuing until this Agreement is terminated as specified in Section 4.

- 6.2. The individual payment instructions so authorised to be issued will be issued and delivered as follows: On the day selected by you on the Agreement Start Date (Payment Day) of each and every month commencing from the Services Start Date. In the event that the payment day falls on a Saturday, Sunday or recognised South African public holiday, the payment day will automatically be the very next ordinary business day. Further, if there are insufficient funds in the nominated account to meet the obligation, Sancreed is entitled to track your account and re-present the instruction for payment as soon as sufficient funds are available in your account.
- 6.3. The withdrawals hereby authorised will be processed through a computerized system provided by the South African Banks and details of each withdrawal will be printed on your bank statement. Each transaction will contain a number which should enable you to identify the Agreement.
- 6.4. You shall not be entitled to any refund of amounts which Sancreed has withdrawn while this authority was in force, if such amounts were legally owing to Sancreed.
- 6.5. All payment instructions issued by Sancreed shall be treated by your above mentioned bank as if the instructions had been issued by you personally.

## **7. INDEMNIFICATION**

- 7.1. You agree to indemnify and hold Sancreed harmless from and against any claims, actions or demands, liabilities and settlements including without limitation, reasonable legal and accounting fees, resulting from, or alleged to result from, your use of the Service.
- 7.2. You indemnify and hold Sancreed harmless against any expense, loss, claim, harm or damage brought against, suffered or sustained by Sancreed, which arises directly or indirectly out of a breach of the terms of this Agreement by you or by your use of the Services, other than in respect of losses caused by the gross negligence or intentional misconduct of Sancreed.

## **8. FORCE MAJEURE**

- 8.1. Without affecting the generality of 7.1 above, Sancreed shall not be liable to you for any breach of this Agreement or failure on Sancreed's part to perform any obligations as a result of any technical problems, act of God, government control, restrictions or prohibitions or other government act or omission, whether local or national, act of default of any supplier, agent or sub-contractor, industrial disputes or any other cause beyond the control of Sancreed.
- 8.2. If we are unable to provide the Services due to interruptions as specified in 8.1, we will attempt to remedy the situation at the earliest possible time.

## **9. DATA MANAGEMENT**

- 9.1. By using the Services, you give consent to Sancreed to use your information in order to assist you in maintaining compliance with the treatment plan prescribed by your doctor and the health guidelines relevant to your health condition(s).
- 9.2. Sancreed will store various data about you including but not limited to your demographics (such as name, ID number, physical address, postal address, age, race and language), data concerning your current state of health (including diagnoses of conditions, lab test results and home test results you provide), banking details and notes from discussions between you and Sancreed. This information is required to provide the Services.
- 9.3. Sancreed may provide you with Services based on the data you provide to Sancreed, including the results of home tests you conduct. You warrant that the data you provide to us will be accurate. Any falsification of data by you could compromise the quality of the Services and may result, at Sancreed's sole discretion, in the termination of this Agreement. Sancreed is not liable for any damages resulting from false data provided by you.
- 9.4. On your request, Sancreed may share the information it holds on you with other parties that you nominate including but not limited to your doctor or other healthcare providers.

- 9.5. On your request, Sancreed may contact your doctor, laboratory test provider or other parties to gather information regarding your health.
- 9.6. Sancreed will not share you personally identifiable information with any party other than those indicated in this Agreement unless required to by law. Sancreed and its electronic systems are bound by this same duty to preserve and not to share your personally identifiable information with anyone else, unless you have given your express and explicit consent to such sharing of information, either in writing or verbal recording.
- 9.7. Your data may be securely stored in a location outside of South Africa, where data protections are at par or better than that prescribed by South African law.
- 9.8. On termination of this agreement, you may choose to have your data removed from the Sancreed systems by notifying Sancreed in writing. If you choose to have your data removed, your historical information will be stored for the legally prescribed period (de-identified to the extent possible) before being deleted.
- 9.9. You agree that Sancreed may use your anonymised data for further analysis including but not limited to publication in academic journals.
- 9.10. All calls made by Sancreed to you and by you to Sancreed will be recorded. Recordings may be used for training purposes, to improve the quality of the Services or as evidence in legal proceedings.

## **10. INTELLECTUAL PROPERTY**

- 10.1. You will not copy, reproduce, alter, create derivative works from, or otherwise modify the Services, including any and all technology, software and content. You will not lease, loan, sublicense, distribute, or otherwise provide others access to or with any aspect of the Services. Other than as expressly set forth in this Agreement, no license or other rights in or to the Services are granted to you, and all such licenses and rights are hereby expressly reserved.
- 10.2. Except for the limited license and use rights expressly granted to you under this Agreement, all title to and the rights in the Services, including any and all technology, software and content, including ownership rights to patents (registrations, renewals, and pending applications), copyrights, trademarks, trade secrets, the Company's or third party hardware, other technology, any derivatives of and all goodwill associated with the foregoing is the exclusive property of Sancreed and/or third parties.

## **11. VARIATION**

- 11.1. This Agreement constitutes the whole agreement between the parties and no variations, representations or warranties other than those set out herein shall be binding on the parties.
- 11.2. Sancreed reserves the right to alter these Terms and Conditions from time to time. You will be bound by all current Terms and Conditions as available on the Guidepost Direct Website. You will be notified via one or more Channels of any changes to these Terms and Conditions. Your subscription to the Service constitutes your acceptance of these Terms and Conditions. Should you choose not to accept the Terms and Conditions you may terminate this Agreement as provided for in Section 4.
- 11.3. In the event of any one or more of these terms and conditions being unenforceable, such terms and conditions will be deemed to be removed from the remainder of this Agreement and the Agreement will remain binding and enforceable.
- 11.4. The failure of Sancreed to insist on or enforce strict performance of the terms of this Agreement will not be construed as a waiver by Sancreed of any provision or any right it has to enforce the terms.

## **12. GOVERNING LAW AND JURISDICTION**

12.1. The entire provisions of this Agreement shall be governed by and construed in accordance with the laws of the Republic of South Africa and all disputes, actions and other matters relating thereto shall be determined in accordance with such law and under the exclusive jurisdiction of the South African Courts.