

By accessing or using the Best Practice Mobile (the **App**), you acknowledge you have read, have understood and confirm your agreement to be bound by these Terms of Use (**Terms**). If you do not agree to these Terms, you may not access or use the App.

These Terms form a legally binding agreement between you, the individual, and Best Practice Software Pty Ltd., 86 Woongarra Street, Bundaberg, Queensland 4670, Australia (**Best Practice**) and references to “we”, “us”, “our” are references to Best Practice. This agreement commences upon your access or use of the App and continues until this agreement is terminated under these Terms.

1. **Terms of Use**

Your access and use of the App is governed by these Terms. We may at our sole discretion change, add, or delete portions of these Terms at any time by notification to you. Any amendment shall be effective immediately upon notification to you via the App or via electronic communication with you. Continued use of the App by you constitute your acknowledgement to be bound by the Terms, as amended.

2. **Changes to App or Service**

We reserve, at our sole discretion, the right to make any changes from time to time to this App or any service provided in conjunction with this App (“**Service**”) as considered by us necessary or desirable.

3. **User Accounts**

You are required to create a Best Practice user account (“**BpID**”) and become registered as a user (**Registered User**) to use the App and access any of Bp Cloud Products. You must provide us with certain information as specified in the App. You agree that information you provide will be true and accurate. You are responsible for maintaining the confidentiality of your account password and for all activities that occur under your account. You may change your password at any time by following instructions on the App. You agree to immediately notify us upon becoming aware of any unauthorised use of your account or any other breach of security.

4. **Access Rights**

4.1 Subject to these Terms, we hereby grant to you a limited, non-exclusive, non-transferable right to access the App for your personal non-commercial use on any compatible electronic device that you own or control. It is a condition of becoming a Registered User, and your access and use of this App, that: (a) you are capable of forming a legally binding contract; (b) the App is to be used only by you and you take responsibility for, and use your best endeavours to prevent unauthorised access to the App by: (i) keeping your credentials confidential; (ii) not allowing any other person unlock your mobile device or store their biometrics on your mobile device where you have biometrics sign-in enabled on the App; (iii) ensuring your mobile device is not left unattended and logged in to the App; (c) you ensure your access to, and use of, the App is for lawful purposes only and is not illegal or prohibited by law; (d) you agree that you will not attempt to, and will not cause, permit or assist any other person to: (i) impersonate any person or entity, or otherwise misrepresent your affiliation with a person or entity; (ii) reverse engineer, disassemble or decompile the whole or any part of the App or otherwise insert or modify any form of code of the App; (iii) distribute viruses through the App; (iv) use the App on a shared device; or (v) otherwise use the App in any manner that exceeds the scope of use granted above.

4.2 You acknowledge that your access to, and use of, the App and the Services may be dependent on third party hardware and services. It is your responsibility to comply with any applicable terms and conditions of those third party providers.

5. **No Medical Advice**

The App provides you with the ability to view and manage medical appointments of your patients. We do not warrant or represent the accuracy, completeness, currency or suitability of any information available made through this App or the Service. You are responsible for the use of any information available through this App or the Service.

6. **User Content**

You shall be solely responsible for any content that you submit in the App. You grant us access to use, reproduce, distribute such user content as permitted through the functionality of the App.

7. **Third Party Services**

This App may contain links or enable access to services or websites of third party providers (“**Third Party Services**”). These Third Party Services are provided for your convenience only. Third Party Services are not under our control and we are not responsible for Third Party Services (including, without limitation, the suitability for your intended use of the Third Party Services). We do not endorse or recommend any Third Party Services or any associated provider organisation or their product or services. You should make your enquiries as to the suitability of any Third Party Service.

8. **Acknowledgements relating to App Distributors**

We acknowledge and you acknowledge that this agreement is not concluded between You and Apple Inc. (“**Apple**”) or You and Google Inc. (“**Google**”) (as the case may be). In these Terms, Apple and Google are referred to as “**App Distributors**”. Where any terms set out under in these Terms are less restrictive than, or otherwise are in conflict with, applicable terms of the App Distributors (including Apple’s usage rules set forth in Apple’s App Store terms of service), the terms of the App Distributors will prevail. We acknowledge and You acknowledge and agree that the App Distributors (and the App Distributors’ subsidiaries) are third party beneficiaries of these Terms and that, upon your acceptance of these Terms, they will have the right (and will be deemed to have accepted the right) to enforce these Terms against you as a third party beneficiary thereto.

9. **Application and Service**

We do not warrant or represent that the App or any information available through the App or the Service will be uninterrupted or error-free or defect-free or that errors or defects in this App or any such information will be corrected. You acknowledge that despite all reasonable precautions on our part, there is a risk of unauthorised access to, or alteration of, transmissions of data or information to, or from, your electronic device or available through the App or the Service.

10. **Intellectual Property Rights**

- 10.1 All right, title and interest in and to the App (including, without limitation, copyright in and to the text, graphics, logos, icons, sound recordings and software of the App) is owned by us or our licensors. Except as expressly authorised, and subject to the conditions prescribed under, the Copyright Act 1968 (Cth) or except as expressly permitted by these Terms, you may not, in any form or by any means: (a) copy, adapt, reproduce, store, distribute, print, display, perform, publish, communicate to the public, make available to public or create derivative works of the whole or any part of the materials or information available on this App except as expressly permitted by, or as is reasonably contemplated by, the normal use of this App; or (b) commercialise the whole or any part of the information provided on this App, without our express written permission or, in the case of third party material, from the owner of the copyright in that material. You must immediately report to us upon becoming aware of any breach, suspected or otherwise, of our intellectual property rights in respect of the App.
- 10.2 You acknowledge that to the extent that any improvements or modifications are made to the App: (a) all intellectual property rights in the App so modified shall vest in or remain with us; (b) to the extent you have any rights or interest in the App so modified, you assign to us all intellectual property rights arising out of any modifications to the App; and (c) you agree to execute all such documents, and perform such other acts, as are necessary or desirable to give effect to this clause.
- 10.3 The Best Practice/Best Practice Mobile logo is a registered trade mark of ours in Australia and New Zealand. If you use any trade marks owned, or licensed, by us in reference to us or the App, you must include a statement attributing that trade mark to us or our licensor (as the case may be). You must not use any of our or our licensor’s trade marks: (a) in or as the whole or part of your own trade marks; (b) in connection with any business, products or services which are not ours; (c) in a manner which may be confusing, misleading or deceptive to any person; or (d) in a manner that disparages us or the App.
- 10.4 Subject to these Terms, we acknowledge and you acknowledge that, in the event of any third party claim that the App or your possession and use of the App infringes that third party’s intellectual property rights, we, not the App Distributors, will be solely responsible for the investigation, defence, settlement and discharge of any such intellectual property infringement claim (to the extent set out under these Terms).

11. **Limitations of Liability**

- 11.1 Nothing under these Terms, and in particular this clause, shall attempt to exclude liability that cannot be excluded under applicable law.
- 11.2 To the maximum extent permitted under applicable law, we will not be liable for any loss, damage, cost, expense or liability of any kind including, without limitation, any direct loss or any indirect, consequential, incidental special exemplary or punitive loss or damage (**Loss**), howsoever caused (including, damages for negligence, lost data or data breaches) suffered or incurred by You arising from or in connection with: (a) your access to, and use of, the App or any information available through the App or the Service; (b) any decision or action take by you in reliance on information available through the App or the Service; (c) any unauthorised access to, or alteration of, transmissions of data or information to or from your electronic device or available through the App or the Service; or (d) any interruption, error or defect in the App or information available through the App or the Service.

12. **Statutory warranties**

To the fullest extent permitted by law, our liability under any guarantee, condition or warranty (including, without limitation, any guarantee, condition or warranty of merchantability, acceptable quality, fitness for purpose or fitness for disclosed result), or any other right or remedy, under any legislation or implied into these Terms by any legislation (“**Statutory Warranties**”) is hereby excluded. In the event of any failure of the App to conform to any applicable Statutory Warranty, you may notify the applicable App Distributor and that App Distributor will refund any purchase price for the App to You (if applicable). To the maximum extent permitted by applicable law, the App Distributors will have no other warranty obligation whatsoever with respect to the App. Any other claims, losses, damages, costs or expenses attributable

to any failure to conform to any warranty, will be our sole responsibility, subject to any exclusions specified in this clause. Where we are liable under any Statutory Warranties, and any legislation avoids or prohibits provisions in a contract excluding or modifying the application of, or exercise of, or liability under, such Statutory Warranties, our liability for any breach of such Statutory Warranties shall be limited, at our option, to one or more of the following: (a) if the breach relates to goods: the replacement of the goods or the supply of equivalent goods; the repair of such goods; the cost of replacing the goods or of acquiring equivalent goods; or the cost of having the goods repaired; and (b) if the breach relates to services: the supplying of the services again or the cost of having the services supplied again. You acknowledge and agree that reliance by us on this limitation of liability is fair and reasonable in all the circumstances.

13. Product claims

Subject to the terms under this agreement, we acknowledge and you acknowledge that we, not the App Distributors, are responsible (to the extent set out under this agreement) for addressing any claims made by You or any third party relating to the App or Your possession and/or use of the App, including but limited to: (a) product liability claims; (b) any claim that the App fails to conform to any applicable legal or regulatory requirement; and (c) claims arising under consumer protection or similar legislation.

14. Indemnity

You agree to indemnify, and keep indemnified, us, our officers, employees and agents (**those indemnified**) from and against any and all loss, damage, cost, expense or liability of any kind suffered or incurred by those indemnified arising from, in connection with: (a) any breach by you of these Terms (including, without limitation any misuse of your account or account password, or the misuse of the content or services of the App); (b) any wilful misconduct by you; or (c) any negligent act or omission by you.

15. Maintenance and support

We are responsible for providing any maintenance and support services with respect to this App as required under applicable law. We acknowledge and you acknowledge that the App Distributors have no obligation whatsoever to furnish any maintenance support services with respect to this App.

16. Termination

We may suspend or terminate your access to and use of the App, your account and/or registration as a Registered User at any time, without need to provide reasons. These Terms will terminate if your access to and use of the App is terminated by us. To the maximum extent permitted by law, we reserve the right to maintain, delete or destroy any and all data relating to your account pursuant to our internal record retention and/or content destruction policies (as updated from time to time) upon the deactivation of your account and you ceasing to be a Registered User. Termination of these Terms will not end those provisions that are capable of surviving the ending of these Terms.

17. Privacy policy

Our privacy policy at <https://bpsoftware.net/privacy-policy/> shall apply to you and your access to and use of the App. You consent to the collection, use, disclosure and handling of your personal information in accordance with that privacy policy.

18. General provisions

We shall not be liable for any delay or failure to perform our obligations under these Terms if such a delay or failure is due to circumstances beyond our reasonable control. If we waive, in whole or part, any rights available to us under these Terms on one occasion, this does not mean that those rights will automatically be waived on any other occasion. If any provision of these Terms is held to be invalid, unenforceable or illegal for any reason, it is to be read down to give it as much effect as possible, or if it is not capable of having any effect at all, it is to be severed from these Terms, in which case, the remainder of these Terms shall nevertheless continue in full force. The laws of the State of Queensland, Australia governs these Terms and the parties submit to the non-exclusive jurisdiction of the courts of the State of Queensland, Australia.

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