

Website Terms

These Terms apply to your access & use of our Website

1. Application and acceptance

- 1.1 These Terms contain the terms on which Sanikleen Group Australia Pty Limited (ABN 27 622 275 987) (referred to as *we*, *our* and *us*) licenses you (referred to as *you* and *your*) to access and use our Website.
- 1.2 By accessing and using our Website, you are agreeing to these Terms. If you do not agree with these Terms, then **do not access or use our Website.**
- 1.3 We may amend or replace these Terms at any time by placing an amendment or replacement on our Website. Your continued use of our Website indicates acceptance of any amendment or replacement of these Terms.

2. Grant of Website Licence

- 2.1 We grant you a Website License. This license continues until terminated in accordance with these Terms.

3. Your obligations

General 3.1

You

will:

- (a) strictly comply with our written instructions in relation to your access to and use of our Website;
- (b) only access and use our Website through the interfaces that we provide; (c) not copy, modify, enhance or reproduce our Website, in whole or in part;
- (d) not reverse-engineer, reverse-translate, disassemble, de-compile, or otherwise attempt to derive source code to our Website;
- (e) not remove or alter these Terms, or any logo, branding, notice or other documentation incorporated in or included with our Website;
- (f) not incorporate, embed, combine, merge or bundle our Website with any other hardware or software (except to the extent strictly necessary to use our Website in accordance with its intended purpose and these Terms);
- (g) not access or utilise our Website to violate the law or rights of any person or entity, including sending spam, unlawful or tortious material;
- (h) not use our Website to send or store software viruses, worms trojan horses or other harmful computer code, files, scripts, agents or programs;
- (i) not interfere with or disrupt the integrity of our Website or the data contained within our Website;
- (j) not attempt to gain unauthorised access to our Website or its related systems or networks;
- (k) not license, sub-license, sell, re-sell, rent, lease, transfer, assign, distribute, time share or otherwise commercially exploit or make our Website available to third parties by any method or means including as part of a bureau service, time sharing service, application service provider offering or other managed service offering, other than as contemplated by these Terms;
- (l) not use any computerised or mechanical process to access, use or to collect content or data from our Website or to send unsolicited or unlawful emails to or through our Website;

- (m) not directly or indirectly permit any third party to do any of the matters specified in **clauses 3.1(c) to 3.1(l)**;
- (n) give us written notice of any Claim involving our Website or otherwise potentially involving us as soon as you become aware of any such Claim; and
- (o) promptly inform us of any known unauthorised or improper use by any person of our Website.

3.2 You acknowledge and agree that, from time to time, our Website will not be operational due to scheduled and unscheduled maintenance.

Third Party Sites

3.3 Links to Third Party Sites are provided for your convenience only and do not constitute an endorsement by us. You will not make any Claim against us in relation to the Third Party Sites, including in relation to any goods or services provided through those sites.

3.4 We hold the benefit of **clause 3** both for ourselves and on trust for the licensors of the IP in our Website.

4. Rights and remedies

4.1 **Important consumer information:** Full details of the consumer rights and remedies referred to in this **clause 3.2** can be obtained from the Australian Competition and Consumer Commission (**ACCC**) at www.accc.gov.au or from a local consumer protection agency.

4.2 **Important consumer information:** Nothing in this **clause 4.2** limits your consumer rights and remedies referred to in **clauses 4.3** and **4.4**. Subject to **clauses 4.3** and **4.4**:

- (a) you agree that all terms, conditions, warranties, guarantees, representations and obligations in relation to our supply to you of goods and services which are implied or granted by statute or general law are excluded; and
- (b) other than as expressly set out in these Terms, we do not warrant or represent the performance, accuracy, reliability or continued availability of our Website or the Community or that our Website or the Community will operate free from faults, errors or interruptions.

4.3 If our Website License is a supply to you of goods or services of a kind ordinarily acquired for personal, domestic or household use or consumption, then you have important rights under the Australian Consumer Law, including Consumer Rights and remedies. Nothing in these Terms limits those rights and remedies in any way.

4.4 If our Website License is a supply to you of goods or services that are not of a kind ordinarily acquired for personal, domestic or household use or consumption and cost no more than \$40,000, then you have important rights under the Australian Consumer Law including Consumer Rights and remedies, but (subject to **clause 4.5**) our liability for loss suffered or incurred by you is limited to us:

- (a) in respect of goods supplied under these Terms:
 - (i) replacing the goods or supplying equivalent goods;
 - (ii) repairing the goods;
 - (iii) paying the cost of replacing the goods or of acquiring equivalent goods; or
 - (iv) paying the cost of having the goods repaired, (b) in respect of services supplied under these Terms:
 - (i) resupplying the services; or
 - (ii) paying the cost of having the services supplied again.

4.5 The limitation of liability in **clause 4.4** does not apply:

- (a) where it is not fair or reasonable for us to rely on that clause; or
 - (b) in relation to rights granted under sections 51, 52 and 53 of the Australian Consumer Law.
- 4.6 Where we are liable to you in circumstances which are not covered by **clauses 4.3 and 4.4**, our total liability to you for all events and occurrences in respect of these Terms, whether in contract, tort including negligence, under statute or otherwise, is limited to \$100. However, the limitation of liability in this **clause 4.6** does not apply to limit our liability to you in relation to:
- (a) personal injury including sickness and death;
 - (b) loss of or damage to tangible property; and
 - (c) criminal conduct, fraud or wilful misconduct.
- 4.7 Subject to any Consumer Rights and to the extent permitted by law:
- (a) we are not liable to you in any circumstances for any indirect, economic, special or consequential loss or damage, loss of revenue, time, goodwill, data, anticipated savings, opportunity, reputational loss, loss of production and loss of profit in respect of these Terms or the supply of any goods and/or services;
 - (b) our liability in respect of these Terms is reduced to the extent that the relevant loss or damage:
 - (i) was caused or contributed to by you; or
 - (ii) arises from inaccurate data or information provided by you; and
 - (c) we have no liability to you for any damage, expense, loss or liability suffered or incurred by you to the extent caused by defects, faults or errors in the Third Party Software.
- 4.8 We hold the benefit of **clause 4** both for ourselves and on trust for the licensors of the IP in our Website.

5. Intellectual Property and privacy

- 5.1 You acknowledge that, other than as expressly set out in these Terms, you obtain no right, title or interest (including IP) in our Website. As between you and us, all IP in our Website (other than the IP in the Third Party Software) remains with us, or vests in us on the date of its creation of development.
- 5.2 We will comply with the Privacy Act as if we were an APP Entity with respect to all Personal Information that we access or obtain from you through our Website. Please refer to our Privacy Policy for further details.

6. Termination

- 6.1 Either party may terminate these Terms without giving any reason by giving the other party written notice.
- 6.2 On termination or expiry of these Terms, you will immediately:
- (a) cease all access and use of our Website; and
 - (b) destroy or return to us all of our Material in your possession or control.

7. General

- 7.1 Subject to any Consumer Rights, these Terms constitutes the entire agreement between the parties as to its subject matter and supersedes all prior representations and agreements in connection with that subject matter. You acknowledge and represent and warrant to us that no representations, warranties, promises, undertakings, statements or conduct (whether express or implied):
- (a) have induced or influenced you to enter into, or agree to any terms of, these Terms;
 - (b) have been relied on in any way as being accurate by you;

- (c) have been warranted to you as being true; or
 - (d) have been taken into account by you as being important to your decision to enter into, or agree to any or all of the terms of, these Terms,
- except those expressly set out in these Terms.

- 7.2 These Terms may only be amended in writing signed by both parties.
- 7.3 Each party warrants that it has the authority, power and capability to enter into and to perform its obligations under these Terms and that its obligations under these Terms are binding and enforceable. If you represent an organisation or other legal entity, you warrant that you have the authority to bind that organisation or entity.
- 7.4 Our obligations under these Terms are suspended during any period in which we are prevented from performing them by a Force Majeure Event.
- 7.5 Each term of these Terms will be interpreted in such manner as to be effective and valid under applicable law. If any term of these Terms is held to be prohibited by or invalid under applicable law, that term is ineffective only to the extent of such prohibition or invalidity, without invalidating the remainder of these Terms.
- 7.6 A term of these Terms may not be waived except in writing signed by the party granting the waiver. The waiver by a party of a breach by another party of any term of these Terms does not operate as a waiver of another or continuing breach by that party of that term or any other term of these Terms.
- 7.7 You will not assign or novate any of your rights or obligations under these Terms without our prior written consent (which we may withhold in our absolute discretion). We may assign or novate any of our rights or obligations under these Terms to any person by notice to you.
- 7.8 The parties acknowledge that nothing in these Terms constitutes a relationship of joint venture, employment or partnership between them.
- 7.9 Unless otherwise specified, each party will pay all its costs associated with negotiating and entering into these Terms and performing its obligations under these Terms.
- 7.10 This Agreement is governed by the laws applicable in the State of New South Wales. The parties submit to the non-exclusive jurisdiction of the courts of that State.

8. Definitions and interpretation

- 8.1 In these Terms:

APP Entity means APP entity as that term is defined in the Privacy Act.

Australian Consumer Law means the Australian Consumer Law contained in schedule 2 to the *Competition and Consumer Act 2010* (Cth).

Claim means any claim, demand, action or proceeding of any kind (whether in contract, tort including negligence, under statute or otherwise).

Consumer means consumer as that term is defined in the Australian Consumer Law.

Consumer Rights means your rights if you are a Consumer contained in the Australian Consumer Law.

Force Majeure Event means any cause beyond our reasonable control, including, your act or omission or those of third parties, fire, storm, flood, earthquake, explosion, accident, act of public enemy, war, rebellion, insurrection, sabotage, epidemic, quarantine restriction, labour dispute, labour shortage, transportation embargo or failure or delay in transportation, plant or equipment breakdown, act of God and act (including laws, regulations, disapprovals or failure to approve) of any government or agency or unavailability of, or defects, faults or errors in, the Third Party Software.

IP means:

- (a) patents, trade marks, services marks, design rights (whether registered or unregistered and including any applications for these rights);
- (b) copyright (including future copyright) throughout the world in all literary works, artistic works, computer software, and any other works or subject matter in which copyright subsists and may in the future subsist;
- (c) trade or business names; and
- (d) know-how, confidential information and trade secrets, and any other similar rights or obligations whether registrable or not in any country. **Material** means material in any form, including documents, reports, products, equipment, information, data, source code, software, software tools, and methodologies.

Personal Information has the meaning given in the Privacy Act.

Privacy Act means the *Privacy Act 1988* (Cth).

Privacy Policy means our privacy policy located at www.sanikleen.com.au/privacy.

Terms means this document.

Third Party Sites means sites and resources located on servers operated and maintained by persons other than us.

Third Party Software includes open source software and means software:

- (a) in which the IP is owned by a third party; and
- (b) which is incorporated in, or integrated or linked with, our Website.

Website means the SKG website located at www.sanikleen.com.au and includes all content in that website.

Website License means a non-exclusive, non-transferable, fee-free license to access and use our Website in accordance with these Terms.

8.2 In these Terms:

- (a) words importing the singular include the plural and vice versa;
- (b) a reference to a thing includes a part of that thing;
- (c) references to clauses, parties, schedules and annexures are references to clauses of, and parties, schedules and annexures to, this Agreement;
- (d) a reference to a party includes its executors, administrators, successors and permitted assigns;
- (e) words importing gender include any gender;
- (f) other grammatical forms of defined words or expressions have corresponding meanings;
- (g) an expression importing a natural person includes a company, partnership, joint venture, association, corporation or other body corporate or any government agency;
- (h) a reference to any statute, regulation, proclamation, ordinance or by-law includes all statutes, regulations, proclamations, ordinances or by-laws varying, consolidating or replacing them, and a reference to a statute includes all regulations, proclamations, ordinances and by-laws issued under that statute;
- (i) a reference to a document or agreement, including this Agreement, includes a reference to that document or agreement as novated, altered or replaced from time to time;
- (j) unless expressly stated otherwise, a reference to currency is a reference to Australian dollars; and

- (k) wherever "*including*" or any form of that word is used, it will be construed as if it were followed by "*(without limitation)*".

