

## Quality Compliance and Innovation Software - Terms of Use

*These Terms of Use were last revised on 14 February 2020*

Quality Compliance and Innovation Pty Ltd ACN 626 133 873 (**QCI**) is the owner and operator of the Quality Compliance and Innovation Survey Tool and Risk Identification, Analysis and Management (RIAM) Tool (together, the **Software**) which is operated through <http://www.qciconsulting.com.au>

### 1 Acceptance of these Terms of Use

These Terms of Use (**Terms**) govern the use of the Software provided by QCI (**we, our, or us**).

QCI may vary these Terms at any time, without notice, by displaying the amended Terms on the Software. You should review the Terms each time you use the Software.

By accessing and using the Software, you acknowledge that you have read and understood the Terms as they exist at that time, and you confirm your acceptance of the Terms.

### 2 Use of the Software

- (a) You have been given access to the Software by an entity that has entered into an agreement in relation to the provision of the Software. If the subscription through which you have been provided access to the Software is cancelled, suspended or terminated for any reason, you will no longer be authorised to use the Software and must not attempt to do so.
- (b) You must only use the Software through the account provided to you by the entity who has given you access to the Software.
- (c) You must only use the Software as directed by the entity who has given you access to the Software and for the sole purpose of surveying and analysing the experiences of individuals in the aged care system.
- (d) You must not use the Software in a way that is unreasonable, unlawful or is likely to harm the integrity of the Software. Without limiting the generality of the foregoing, you must not:
  - (i) permit another person to use the Software with your account;
  - (ii) use the Software on another user's account, even if you also have an account;
  - (iii) sell access to, or information from, the Software;
  - (iv) interfere (or attempt to interfere) with the working of the Software; or
  - (v) circumvent (or attempt to circumvent) any security or authentication measures of the Software or any other system, network or server connected to the Software.
- (e) You acknowledge and agree that you are solely responsible and liable for:
  - (i) obtaining relevant consents in relation to your collection of information (including 'personal information' for the purposes of the *Privacy Act 1988* (Cth)) from any individuals you assess using the Software;
  - (ii) ensuring the security of your account including keeping all passwords and other security information confidential; and
  - (iii) all activity on the Software that occurs through your account, whether authorised by you or otherwise.
- (f) You acknowledge and agree that the Software may collect and store your personal information in line with our privacy policy and under the guidelines of the *Privacy Act 1988* (Cth).

### 3 Security of information

No data transmitted over the internet or mobile phone networks is secure, and we do not warrant, and cannot ensure, the privacy, security or integrity of your data, including through the normal

functioning of the software. You transmit data using the Software entirely at your own risk. You agree that we will not be liable for any damage or loss caused as a result of any failures in this regard.

#### **4 Intellectual property**

- (a) QCI owns or is licensed to use all intellectual property rights in the Software (including in all underlying source code) and in the content of the Software (including all text, trade marks, logos, images and graphics) and any updates to them.
- (b) No licence, right to, title to or other interest in intellectual property is granted to you under these Terms. Nothing in these Terms or on the Software should be construed as providing such consent.
- (c) Except as otherwise expressly provided in these Terms, you must not otherwise copy, adapt, reproduce, publish, distribute or otherwise deal with any of the content found on this software in any form without prior written permission from QCI (except as permitted under the *Copyright Act 1968 (Cth)* or any other applicable law in your location).
- (d) You may view content or print a copy of material on this Software for your personal, non-commercial use, provided that you do not modify the content in any way and keep the material confidential.
- (e) You retain all right, title and interest in any uploaded material. You grant us a non-exclusive, transferrable, global, royalty-free license to use, copy, modify, adapt, publish, transmit or broadcast, and sub-license the uploaded material for the sole purpose of operating the Software or otherwise in the course of your dealings with us.

#### **5 Third party content and links**

This Software may include links to third party websites and other online resources. Such links do not indicate a relationship between those third parties and QCI, nor endorsement by QCI of such third parties, their products, services or websites. Use of such links is entirely at your own risk and are subject to the terms of those third party websites.

#### **6 No Warranties**

The Software and its content are provided on an 'as is' basis and to the fullest extent possible and subject to any liabilities and obligations which cannot be excluded by law, we do not warrant:

- (a) that the functions contained in the Software will meet your requirements;
- (b) the accuracy or completeness or reliability of the Software or its content; or
- (c) that your access to the Software or any part of the Software will be uninterrupted or error free, that defects will be corrected or that the Software or the server that makes it available are free of viruses, bugs or malicious code or other forms of interference which may damage your device.

#### **7 Liability**

7.1 We will have no liability in respect of:

- (a) any loss or damage that you incur arising from your use of the Software (including damage to your software or hardware, corruption of data or loss of data); or
- (b) any action or inaction taken or thing done or omitted to be done in reliance on the Software or any information contained on the Software.

7.2 We do not accept any responsibility to you for:

- (a) any losses or delays in transmission or receipt of messages or information arising out of the use or malfunction of services, facilities, Software, hardware or products which cannot reasonably be considered to be under our control;

- (b) any unauthorised use or interception of any message or information; or
- (c) any direct or indirect loss suffered by you as a result of a reduced level of service caused by a third party.

7.3 To the extent permitted by law:

- (a) all conditions, warranties, guarantees, rights, remedies, liabilities and other terms implied by statute, custom or the common law including but not limited to warranties of accuracy, completeness, non-infringement, or usefulness of the Software, are excluded from these Terms; and
- (b) in no event will we be liable in contract, tort (including negligence), under statute or otherwise for any incidental, consequential or indirect damages, including loss or corruption of data or information, arising out of or related to your use or inability to use the software.

7.4 If a supply under these Terms is a supply of services to a consumer within the meaning of the *Australian Consumer Law* as set out in the *Competition and Consumer Act 2010 (Cth)* (**ACL**) nothing contained in these Terms excludes, restricts or modifies the application of any provision, the exercise of any right or remedy, or the imposition of any liability under the ACL, provided that, to the extent that the ACL permits us to limit our liability, then our liability will be limited to the:

- (a) resupply of the services; or
- (b) payment of the cost of resupplying the services.

## 8 Your indemnity

You indemnify QCI and its related entities and each of their directors, officers, employees and agents against any actions, claims, liabilities, losses, damages, costs and expenses (including, without limitation, reasonable legal fees and disbursements and costs in investigation, litigation, settlement, judgment, interest, fines and penalties) which any of them incur directly or indirectly arising from your use of the Software or any breach of these Terms by you.

## 9 Breach

If you breach, or we suspect that you have breached, any of these Terms, we may, in addition to any other rights we have at law or otherwise, suspend (in whole or part) or terminate your use and access to the Software without further notice.

## 10 General

- (a) You may not assign or transfer any rights or obligations under these Terms to any third party. We may assign or transfer any rights or obligations under these Terms to any third party in our absolute discretion.
- (b) You warrant that all communications and information provided by you using this Software are not fraudulent or defamatory, and will not otherwise infringe any law or any third party rights. You further warrant that QCI's use of that information in accordance with these Terms will not infringe the rights of any third party.
- (c) If any part of these Terms is held to be unenforceable, void or illegal, that part may be severed and the remainder of these Terms will continue in full force.
- (d) Any waiver of our rights under these Terms is not effective unless in writing signed by us. Any failure or delay by us in exercising a right under these Terms does not constitute a waiver of our rights. Any waiver by us will only waive our specified rights in those specified circumstances and will not waive any of our other rights, or the same rights in other circumstances.
- (e) Any personal information we collect from you in the course of your use of the Platform will be handled in accordance with our privacy policy which can be viewed on our website at <https://qciconsulting.com.au>

- (f) These Terms constitute the whole of the agreement between us and you and sets out all of the parties' rights and obligations in relation to the Software, and replaces all earlier representations, statements, agreements and understandings except to the extent the Terms apply.
- (g) These Terms are governed by the laws in force in South, Australia. You agree to the jurisdiction of the courts of South Australia and the Commonwealth of Australia.

If you have any questions or comments regarding the Software, these Terms or our services please contact us at [info@qciconsulting.com.au](mailto:info@qciconsulting.com.au)