

PESKY GNATS
CLINICIAN LICENSING AGREEMENT

You may only be a party to this licence if you are a qualified and, where appropriate, registered healthcare professional.

The content of the desktop software is provided for general information only. It is not intended to amount to advice on which you should rely. In particular, this information is not a *substitute* for professional medical care.

By installing the desktop software you agree to the terms of this licence which will bind you and your employees. The terms of this licence include, in particular, limitation on liability in condition 6.

By agreeing to the terms of this licence you are confirming that the information that you have provided via the registration form is correct and complete.

If you do not agree to the terms of this licence, we will not license the software and documents to you and you must discontinue the installation process now.

NOTICE: PLEASE READ CAREFULLY BEFORE DOWNLOADING ANY SOFTWARE

1 INTRODUCTION

1.1 This licence agreement (**Licence**) is a legal agreement between you (the **Clinician** or **you**) and Handaxe Community Interest Company of Narrow Quay House, Narrow Quay, Bristol BS1 4QA (**Licensor, us** or **we**) for:

- (a) Pesky gNATs version 1.0 for desktop, the data supplied with the software, and the associated media (**Desktop Software**);
- (b) Pesky gNATs version 1.0 mobile application software, the data supplied with the application, and the associated media (**App**); and
- (c) electronic documentation (**Documents**).

1.2 We license use of the Desktop Software, the App and Documents to you on the basis of this Licence. We do not sell the Desktop Software, the App or Documents to you. We remain the owners of the Desktop Software, the App and Documents at all times.

1.3 Operating system requirements:

- (a) the Desktop Software requires a PC or MAC with a minimum of 2GB of memory and the Windows or OS X operating system, with Windows 8 (or later), or OS X v10.10 Yosemite (or later);
- (b) the App requires one of the following:
 - (i) an iPhone with the iOS8 (or later) operating system; or
 - (ii) an Android phone with the Android 4.0 (or later) operating system.

1.4 IMPORTANT NOTICE TO ALL USERS:

- (a) YOU MAY ONLY BE A PARTY TO THIS LICENCE IF YOU ARE A QUALIFIED AND REGISTERED HEALTHCARE PROFESSIONAL.
- (b) BY INSTALLING THE DESKTOP SOFTWARE YOU AGREE TO THE TERMS OF THIS LICENCE WHICH WILL BIND YOU AND YOUR EMPLOYEES. THE TERMS OF THIS LICENCE INCLUDE, IN PARTICULAR, LIMITATION ON LIABILITY IN CONDITION 6.
- (c) IF YOU DO NOT AGREE TO THE TERMS OF THIS LICENCE, WE WILL NOT LICENSE THE SOFTWARE AND DOCUMENTS TO YOU AND YOU MUST DISCONTINUE THE INSTALLATION PROCESS NOW.

1.5 You should print a copy of this licence for future reference.

2 GRANT AND SCOPE OF LICENCE

2.1 In consideration of the licence fee (which is part of the price the user pays for this package), the Licensor hereby grants to you a non-exclusive, non-transferable licence to use the Desktop Software, the App and the Documents on the terms of this Licence.

2.2 This licence is a single-user licence. You may:

- (a) install and use the Desktop Software for your internal business purposes only:
 - (i) on three central processing units (CPUs);
 - (ii) receive and use any free supplementary software code or update of the Desktop Software incorporating “patches” and corrections of errors as may be provided by the Licensor from time to time; and
 - (iii) use any Documents in support of the use permitted under condition 2.2 and make copies of the Documents as are reasonably necessary for its lawful use.

3 RESTRICTIONS

3.1 Except as expressly set out in this Licence or as permitted by any local law, you undertake:

- (a) only to use the Desktop Software if you are a qualified healthcare professional or a Service User accompanied by a qualified healthcare professional;
- (b) not to copy the Desktop Software, the App or Documents except where such copying is incidental to normal use of the Desktop Software or the App or where it is necessary for the purpose of back-up or operational security;
- (c) not to rent, lease, sub-license, loan, translate, merge, adapt, vary or modify the Desktop Software, the App or Documents;
- (d) not to make alterations to, or modifications of, the whole or any part of the Desktop Software or the App nor permit the Desktop Software or the App or any part of them to be combined with, or become incorporated in, any other programs;
- (e) not to disassemble, de-compile, reverse engineer or create derivative works based on the whole or any part of the Desktop Software or the App nor attempt to do any such things except to the extent that (by virtue of section 296A of the Copyright, Designs and Patents Act 1988) such actions cannot be prohibited because they are essential for the purpose of achieving inter-operability of the Software with another software program, and provided that the information obtained by you during such activities:

- (i) is used only for the purpose of achieving inter-operability of the Desktop Software or the App with another software program;
 - (ii) is not disclosed or communicated without the Licensor's prior written consent to any third party to whom it is not necessary to disclose or communicate it; and
 - (iii) is not used to create any software which is substantially similar to the Desktop Software or the App;
- (f) to keep all copies of the Desktop Software and the App secure and to maintain accurate and up-to-date records of the number and locations of all copies of the Desktop Software and the App;
 - (g) to supervise and control use of the Desktop Software and the App and ensure that the Desktop Software and the App are used by your employees and representatives in accordance with the terms of this Licence;
 - (h) to include our copyright notice on all entire and partial copies of the Desktop Software and the App in any form;
 - (i) not to provide, or otherwise make available, the Desktop Software or the App in any form, in whole or in part (including, but not limited to, program listings, object and source program listings, object code and source code) to any person other than your employees without prior written consent from us;
 - (j) not to use the Desktop Software via any communications network or by means of remote access; and
 - (k) to comply with all applicable technology control or export laws and regulations.

4 INTELLECTUAL PROPERTY RIGHTS

- 4.1 You acknowledge that all intellectual property rights in the Desktop Software, the App and the Documents throughout the world belong to us, that rights in the Desktop Software and the App are licensed (not sold) to you, and that you have no rights in, or to, the Desktop Software, the App or the Documents other than the right to use them in accordance with the terms of this Licence.
- 4.2 You acknowledge that you have no right to have access to the Desktop Software or the App in source code form.

5 LIMITED WARRANTY

- 5.1 We warrant that:
 - (a) the Desktop Software and the App will, when properly used and on an operating system for which they were designed, perform substantially in accordance with the functions described in the Documents; and
 - (b) that the Documents correctly describes the operation of the Desktop Software and the App in all material respects

for a period of [90 days] from the date of installation of the Software (**Warranty Period**).

- 5.2 If, within the Warranty Period, you notify us in writing of any defect or fault in the Desktop Software or the App as a result of which it fails to perform substantially in accordance with the Documents, we will, at our sole option, either repair or replace the Desktop Software or the App, provided that you make available all the information that may be necessary to help us to remedy the defect or fault, including sufficient information to enable us to recreate the defect or fault.

- 5.3 The warranty does not apply:
- (a) if the defect or fault in the Desktop Software or the App results from you having altered or modified the Desktop Software or the App; or
 - (b) if the defect or fault in the Desktop Software or the App results from you having used the Desktop Software or the App in breach of the terms of this Licence.

6 LIMITATION OF LIABILITY

- 6.1 You acknowledge and agree that no medical advice, medical service, medical information or other medical engagement is provided by the Desktop Software or the App or otherwise by the Licensor or by anyone on its behalf, and that you are installing and (if applicable) using the Desktop Software and the App at your own risk, without any reliance, assumption, expectation, or intent whatsoever that the Desktop Software or the App and/or the Licensor shall provide you with any medical advice, medical service, medical information or other medical engagement. You are hereby urged and expressly asked to consult your health care provider for any health concerns. You agree that the Licensor and/or anyone on its behalf will not incur any liability to you or to anyone else for your installation and/or use of the Desktop Software or App or reliance on any usage made with it.
- 6.2 You acknowledge that the Desktop Software and the App have not been developed to meet your individual requirements, and that it is therefore your responsibility to ensure that the facilities and functions of the Desktop Software and the App as described in the Documents meet your requirements.
- 6.3 We only supply the Desktop Software and Documents for internal use by your business, and you agree not to use the Desktop Software or Documents for any re-sale purposes.
- 6.4 We shall not in any circumstances whatever be liable to you, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, arising under or in connection with the Licence for:
- (a) loss of profits, sales, business, or revenue;
 - (b) business interruption;
 - (c) loss of anticipated savings;
 - (d) loss or corruption of data or information;
 - (e) loss of business opportunity, goodwill or reputation; or
 - (f) any indirect or consequential loss or damage.
- 6.5 Other than the losses set out in condition 6.4 (for which we are not liable), our maximum aggregate liability under or in connection with this Licence whether in contract, tort (including negligence) or otherwise, shall in all circumstances be limited to a sum equal to the Licence Fee. This maximum cap does not apply to condition 6.6.
- 6.6 Nothing in this Licence shall limit or exclude our liability for:
- (a) death or personal injury resulting from our negligence;
 - (b) fraud or fraudulent misrepresentation;
 - (c) any other liability that cannot be excluded or limited by English law.
- 6.7 This Licence sets out the full extent of our obligations and liabilities in respect of the supply of the Desktop Software, the App and Documents. Except as expressly stated in

this Licence, there are no conditions, warranties, representations or other terms, express or implied, that are binding on us. Any condition, warranty, representation or other term concerning the supply of the Desktop Software, the App and Documents which might otherwise be implied into, or incorporated in, this Licence whether by statute, common law or otherwise, is excluded to the fullest extent permitted by law.

7 TERMINATION

- 7.1 We may terminate this Licence immediately by written notice to you if you commit a material or persistent breach of this Licence which you fail to remedy (if remediable) within 14 days after the service of written notice requiring you to do so.
- 7.2 Upon termination for any reason:
- (a) all rights granted to you under this Licence shall cease;
 - (b) you must cease all activities authorised by this Licence;
 - (c) you must immediately delete or remove the Desktop Software and the App from all computer equipment in your possession and immediately destroy or return to us (at our option) all copies of the Desktop Software and the App then in your possession, custody or control and, in the case of destruction, certify to us that you have done so.

8 COMMUNICATIONS BETWEEN US

- 8.1 If you wish to contact us in writing, or if any condition in this Licence requires you to give us notice in writing, you can send this to us by e-mail or by pre-paid post to Handaxe Community Interest Company at Orchard Court, Orchard Lane, Bristol BS1 5WS. We will confirm receipt of this by contacting you in writing, normally by e-mail.
- 8.2 If we have to contact you or give you notice in writing, we will do so by e-mail to the email address you provide to us in your order for the Software.
- 8.3 Please note that any notice given by you to us, or by us to you, will be deemed received and properly served immediately when posted on our website, 24 hours after an e-mail is sent, or three days after the date of posting of any letter. In proving the service of any notice, it will be sufficient to prove, in the case of a letter, that such letter was properly addressed, stamped and placed in the post and, in the case of an e-mail, that such e-mail was sent to the specified e-mail address of the addressee.

9 EVENTS OUTSIDE OUR CONTROL

- 9.1 We will not be liable or responsible for any failure to perform, or delay in performance of, any of our obligations under this Licence that is caused by an Event Outside Our Control. An Event Outside Our Control is defined below in condition 9.2.
- 9.2 An **Event Outside Our Control** means any act or event beyond our reasonable control, including without limitation failure of public or private telecommunications networks.
- 9.3 If an Event Outside Our Control takes place that affects the performance of our obligations under this Licence:
- (a) our obligations under this Licence will be suspended and the time for performance of our obligations will be extended for the duration of the Event Outside Our Control; and
 - (b) we will use our reasonable endeavours to find a solution by which our obligations under this Licence may be performed despite the Event Outside Our Control.

10 OTHER IMPORTANT TERMS

- 10.1 We may transfer our rights and obligations under this Licence to another organisation, but this will not affect your rights or our obligations under this Licence.
- 10.2 You may only transfer your rights or your obligations under this Licence to another person if we agree in writing.
- 10.3 This Licence and any document expressly referred to in it constitutes the entire agreement between you and us. You acknowledge that you have not relied on any statement, promise or representation made or given by or on behalf of the us which is not set out in this Licence or any document expressly referred to in it.
- 10.4 If we fail to insist that you perform any of your obligations under this Licence, or if we do not enforce our rights against you, or if we delay in doing so, that will not mean that we have waived our rights against you and will not mean that you do not have to comply with those obligations. If we do waive a default by you, we will only do so in writing, and that will not mean that we will automatically waive any later default by you.
- 10.5 Each of the conditions of this Licence operates separately. If any court or competent authority decides that any of them are unlawful or unenforceable, the remaining conditions will remain in full force and effect.
- 10.6 This Licence, its subject matter and its formation (and any non-contractual disputes or claims) are governed by English law. We both agree to the exclusive jurisdiction of the courts of England and Wales.