

Terms and Conditions of Sale

This Agreement (hereinafter referred to as "Agreement") is made this 24th day April, 2018 by and between Spinach Effect Solutions® Pty Ltd, an Australian corporation having its principal place of business located at 38 Maxwell Tce, Glenelg East, South Australia 5045, Australia (hereinafter referred to as "Spinach Effect Solutions®"), and _____, having its primary place of business located at _____ (hereinafter referred to as "Client").

Commencement Date

This agreement commences on April 24, 2018.

Required at time of order

Upon payment of a deposit, The Client will also be required to provide Spinach Effect with the following information:

1. **Company Logo:** High resolution format (i.e. .jpg larger than 1.5 Mb, or .eps, .pdf or .ai files)
2. **Brand Style Guide:** Or examples of marketing materials that may help us to conform to your existing brand identity
3. **Customer Service Email:** Where should email notifications of requests from Users be sent so that they can be actioned immediately?
4. **Address and contact details for all hearing clinic locations** (if not easily found on the Client's website)
5. **Idle Screens:** What messages would you like to display on your kiosk when it is not being used? We will provide concepts for your approval and feedback.
6. **Free Hearing Tests?** Do you intend to offer people "free consultations" to people who have been screened by the Touchscreen Hearing Check and shown to have a significant hearing loss?

Support, Hosting & License Fees

- Client will be billed quarterly for support and licence fees on monthly basis in arrears at the rate specified on the invoice.
- Payment terms are 14 days from date of invoice.
- Minimum Term of the contract is 36 months from the delivery date.
- See Cancellation Terms below (Section 12).

Fee Schedule

- The monthly license fees will be charged on a sliding scale, dependent on the number of active units held by the Client
 - 1st – 3rd unit = \$49/unit per month (plus gst)
 - 4th – 10th unit = \$39/unit per month (plus gst)
 - 11th – 30th unit = \$29/unit per month (plus gst)
 - 30th – 100th unit = \$25/unit per month (plus gst)

*Example: If the Client has 57 units, the monthly charge will be:
(10 x \$39) + (20 x \$29) + (7 x \$25) = \$1,145 (plus gst)*

Service Agreement

In completing an order for the Touchscreen Hearing Check (Touchscreen Hearing Kiosk) the Client accepts the following conditions in entirety and without exception.

1. **Definitions:** In these conditions, the "Client" means the hearing care provider, reseller, distributor or hearing aid manufacturer named on the order form. The "Unit" refers to all hardware associated with the provision of the solution, which may include: iPad, kiosk stand; headphones; and/or accessories. The "Software" refers to: the iPad application (Touchscreen Hearing Check); all programs running on our servers that process and store "Data" remotely; and the secure customer Administration Portal. "Data" refers to the prospect databases built by the solution, as well as reports on performance of the Client's Touchscreen Hearing Check Program.

2. **Intellectual Property:** The Touchscreen Hearing Check, 5-minute Hearing Check and Touchscreen Hearing Kiosk are trademarks of Spinach Effect Solutions Pty Ltd. All trademarks, copyright, patents and intellectual property on solution is retained by Spinach Effect Solutions Pty Ltd. This includes:
 - Design of the kiosk stands
 - Noise correction algorithms within the software
 - Algorithm used to determine whether User has a significant hearing loss
 - Trademarks: Including Spinach Effect, Touchscreen Hearing Kiosk, Touchscreen Hearing Check, and 5-minute Hearing Check
 - Video and scripts
 - All software codes and scripts
 - User interface of the software (i.e. Screen Design)
 - Data capture and storage methodology in relation to self-test unit, used within the hearing care industry (i.e. Administration Portal)
3. **Warranties:** The kiosk stand has a 1-year warranty against breakage or failure incurred within the normal use. Damage occurring in transit of the units after delivery is not covered under this warranty. iPad (1-year) and headphones carry standard manufacturer warranties.
4. **Payment:** Terms are strictly enforced. If the Client fails to invoice within 30-days of delivery, this may result in a 5% increase in the remaining balance for each week payment is in arrears. Spinach Effect also reserves the right to deny Client access to the Administration Portal and, thus, withhold leads generated by the Touchscreen Hearing Check until outstanding invoices are paid.
5. **Ownership of the units:** In purchasing the Touchscreen Hearing Kiosks, the Client attains ownership for all hardware used in the solution. Therefore, the Client may deploy the units to their satisfaction in any location. As such, the Client assumes responsibility for the safe deployment and/or unforeseen damage to the units or injury suffered because of their misuse.
6. **Data:** The Client retains exclusive rights to all identifiable data obtained through their units, but agrees to adhere to privacy laws and the policy that may be viewed by Users within the Software.
7. **Marketing:** Spinach Effect Solutions may provide prospective clients with general statistics about the performance of the solution, such as:
 - "The Touchscreen Hearing Check has generated X,XXX leads for hearing care providers across Y continents and Z countries since the program commenced"
 - No reference will ever be made to results related to any specific Client without the prior consent of that Client.
8. **Property:** Ownership on all materials shall not pass until the total invoice for the order has been paid. Until such time, Spinach Effect Solutions shall be entitled to remove from a site any materials supplied whether fixed to the site or not. Risk passes on delivery.
9. **Recuperation Costs:** Spinach Effect has the right to claim all recuperation costs on moneys outstanding, including: debt collection costs; legal fees; & time lost by its employees).
10. **Remote shut down:** If the Client falls into arrears in payments for units, including repayments and licence fees, Spinach Effect reserves the right to deny access to leads generated by the kiosks, including emails and access codes to the Administration Portal.
11. **Support and Upgrades:** All Clients maintaining good credit terms will be eligible for all major upgrades and enhancements to their solution at no extra cost. These upgrades may include, but are not limited to:
 - Evolution and continued refinement of the algorithms for 'Noise Correction Factor' and 'Significant Hearing Loss' algorithms
 - Video Guide and User Interface (screens) enhancements
 - Administration Portal reports and features, as requested by customers of the Touchscreen Hearing Check program
 - Minor bug fixes

This does not include rebranding or design changes requested by the Client after the delivery date.

12. **Licence cancellation fees:** Should the program not work to the satisfaction of the Client and they wish to discontinue the Software Licences mid-contract, the following will terms will apply.
 - (a) All hardware and equipment will remain the property of the Client
 - (b) Spinach Effect Solutions will deregister the iPads within the secure Administration Portal and software will no longer connect to the portal to generate Free Hearing Reports, Leads and Appointment Requests
 - (c) A cancellation fee of \$50/per unit and 20% of outstanding Monthly License Fees will be payable by the Client to Spinach Effect Solutions for all devices that are no longer to be supported.
 - a. These cancellation fees will also apply to iPads that are misplaced, stolen and damaged during regular use that the Client decides not to replace. The Client will need to inform Spinach Effect of misplaced, stolen and damaged units that they no longer wish to pay licence and support fees for, and this will be reflected in the invoice for the following Quarter.

13. **Deliverables:** The following are provided as part of this solution:

- Web hosting for Administration Portal
- Protection of all user data using 256-bit encryption and server firewalls
- Professional administration of the Touchscreen Hearing Check program, including invoicing, ordering, and customer service assistance as required
- Ad hoc maintenance checks conducted by Spinach Effect Solutions to identify units which may not be operational and alerting the Client

14. **Acceptance**

- Placement of an order implies acceptance of all terms and conditions.
- These terms and conditions supersede all previous communications and negotiations in relation to products and services rendered. Except as may be specifically provided in these terms and conditions any terms and conditions contained in or relating to any other documents in respect of the goods provided and/or services rendered are excluded.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date indicated below:

CLIENT

SPINACH EFFECT SOLUTIONS®

Signed: _____

Signed: _____

Simon Hammond
Spinach Effect Solutions® Pty
Ltd

Witnessed by:

Witnessed by:

Signed: _____

Signed: _____

Date: _____

Date: _____