

TERMS AND CONDITIONS

Welcome to VarroaMate! We are VarroaMate Pty Ltd, an Australian company with ACN 696 739 732 ('**VarroaMate**', '**we**', '**our**' or '**us**'). We provide a suite of web applications designed to assist with hive management, Varroa pest monitoring, and related educational resources, as described on our Website (<https://varroamate.com>) (**Web App**).

For the purposes of these Terms, the five separate web applications offered under the VarroaMate platform are treated as a single Web App.

These terms and conditions (**Terms**) govern your access to the Web App and us providing you any other goods and services as set out in these Terms (**Subscription**). You can view the most updated version of our Terms at <https://www.varroamate.com> (**Website**). Please read these terms and conditions carefully before agreeing to proceed with your Subscription.

Subscription is for the tiered package as selected by you via the Website, which includes the permitted Number of Hives and applicable features, as agreed between us (**Subscription Tier**).

Please note that your Subscription will continue to renew indefinitely, and you will continue to incur Subscription Fees, unless you notify us that you want to cancel your Subscription in accordance with clause 16. Please ensure you contact us if you want to cancel your Subscription or use the 'Manage/Cancel Subscription' button present in the VarroaMate Plans tab.

1. DISCLAIMER

- (a) **(No Professional Advice)** The Web App (including all content, data, insights, recommendations, and outputs) is provided for general informational purposes only. It does not constitute professional, agricultural, biosecurity, veterinary, or pest management advice. You acknowledge and agree that you are solely responsible for:
 - (i) how you interpret and use any information provided through the Web App; and
 - (ii) all decisions, actions, and outcomes arising from your management of bee hives and treatment of pests (including Varroa mite infestations).
- (b) **(No Guarantee of Accuracy or Outcomes)** While we aim to provide useful and up-to-date information, we do not warrant or represent that:
 - (i) any information provided through the Web App is accurate, complete, reliable, or current; or
 - (ii) the use of the Web App (or any recommendations or outputs) will result in any particular outcome, including the prevention, control, or treatment of Varroa or any other pest.

To the maximum extent permitted by law, all information is provided "as is" and "as available".
- (c) **(AI and Automated Outputs)** The Web App may incorporate artificial intelligence, including AI-powered tools and chatbots (**AI Features**), which may be powered by or rely on third-party service providers. You acknowledge and agree that:
 - (i) AI Features may generate content that is incorrect, incomplete, misleading, or not tailored to your specific circumstances;
 - (ii) AI outputs are generated automatically and should not be relied on as a substitute for professional advice or independent verification; and
 - (iii) you use and rely on any AI-generated outputs at your own risk.
- (d) **(No Responsibility for Hive Health or Pest Outcomes)** Without limiting any disclaimers listed in these Terms, we do not guarantee:
 - (i) the health, productivity, or survival of any bee hives;

- (ii) the effectiveness of any pest management strategy; or
- (iii) the detection, prevention, or eradication of Varroa or any other pest or disease.

You acknowledge that beekeeping and pest management involve inherent risks that are outside our control.

- (e) **(Availability, Downtime and Performance)** We do not guarantee that the Web App will be available at all times, uninterrupted, free from delays, latency, or performance issues, or free from errors, bugs, or defects. To the maximum extent permitted by law, we are not responsible for any loss, damage, or inconvenience arising from:
 - (i) any downtime, outage, or interruption;
 - (ii) delays or lag in data processing, syncing, or display; or
 - (iii) any failure or delay in receiving or transmitting data.
- (f) **(User Responsibility and Verification)** You must independently verify any information obtained through the Web App before relying on it, particularly where it relates to:
 - (i) pest treatment methods;
 - (ii) chemical or biological interventions; or
 - (iii) hive management decisions.
- (g) **(Third Party and Environmental Factors)** You acknowledge that outcomes relating to bee health and pest control may be affected by factors outside our control, including environmental conditions, weather, location, hive practices, and third-party products or services. We are not responsible for any such factors or their impact.
- (h) **(Biosecurity and Legal Obligations)** VarroaMate does not replace your legal obligations to report notifiable diseases, including American Foulbrood (AFB) and European Foulbrood (EFB), to your relevant state or territory agriculture authority. You must always comply with your state's biosecurity and reporting requirements. VarroaMate accepts no responsibility or liability for your compliance, any actions taken, or any outcomes arising from your management of bee hives or reporting of notifiable diseases.

2 READING AND ACCEPTING THESE TERMS

- (a) In these Terms, capitalised words and phrases have the meanings given to them where they are followed by bolded brackets, or as set out in the Definitions table at the end of these Terms.
- (b) By clicking the tick box below or clicking the "I accept" button on our Website, paying for your Subscription or otherwise accepting the benefit of any part of your Subscription, you agree to be bound by these Terms which form a binding contractual agreement between you the person acquiring a Subscription or the company you represent and are acquiring the Subscription on behalf of ('you' or 'your') and us.
- (c) We may change these Terms at any time by notifying you, and your continued use of the Web App following such an update will represent an agreement by you to be bound by the Terms as amended.

3 ELIGIBILITY

- (a) By accepting these Terms, you represent and warrant that:
 - (i) you have the legal capacity and authority to enter into a binding contract with us; and
 - (ii) you are authorised to use the payment you provided when purchasing a Subscription.
- (b) The Web App is not intended for unsupervised use by any person under the age of 18 years old or any person who has previously been suspended or prohibited from using the Web App. By using the Web App, you represent and warrant that you are either:
 - (i) over the age of 18 years and accessing the Web App for personal and commercial use; or

- (ii) accessing the Web App on behalf of someone under the age of 18 years old and consent to that person's use of the Web App.
- (c) Please do not access the Web App if you are under the age of 18 years old and do not have your parent or guardian's consent, if you are under 16 or if you have previously been suspended or prohibited from using the Web App.
- (d) If you are signing up not as an individual but on behalf of your company, your employer, an organisation, government or other legal entity (**Represented Entity**), then "you" or "your" means the Represented Entity and you are binding the Represented Entity to this agreement. If you are accepting this agreement and using our Web App on behalf of a Represented Entity, you represent and warrant that you are authorised to do so.

4 DURATION OF YOUR SUBSCRIPTION

- (a) Your Subscription and these Terms commence on the date you agree to be bound by these Terms (as set out at the beginning of these Terms) and continues for the Subscription Period and any Renewal Periods applicable, unless terminated earlier in accordance with clause 16.
- (b) Subject to clause 4(c), upon expiration of the Subscription Period, this agreement will automatically and indefinitely renew on an ongoing basis for a period equal to the Subscription Period (**Renewal Period**).
- (c) This agreement will not automatically renew on expiry of the Subscription or Renewal Period (**Renewal Date**), if either party provides a written cancellation notice by at least midnight the day prior to the Renewal Date.
- (d) At least 1 week prior to the expiry of the Renewal Date, we will provide you with advanced written notice of the agreement renewing and any applicable changes to the Subscription Fees or these Terms (**Renewal Notice**).

5 THE WEB APP

5.1 SCOPE OF YOUR SUBSCRIPTION AND THE WEB APP

- (a) We will provide you, to the extent described in your Subscription Tier, access to the Web App.
- (b) Your Subscription includes the benefits and limitations of your Subscription Tier as set out on our Website, or as otherwise communicated to you when you subscribe for your Subscription (and as amended from time to time by notice to you).

5.2 ACCOUNTS

- (a) (**Accounts**) To use the Web App, you are required to sign-up, register and receive an account through the Website (an **Account**).
- (b) (**Provide Information**) As part of the Account registration process and as part of your continued use of the Web App, you may be required to provide personal information and details, such as your email address, first and last name, preferred username, a secure password, billing address, Hive location, mobile phone number, payment details, and other information as determined by us from time to time.
- (c) (**Warranty**) You warrant that any information you give to us in the course of completing the Account registration process is accurate, honest, correct and up-to-date.
- (d) (**Acceptance**) Once you complete the Account registration process, we may, in our absolute discretion, choose to accept you as a registered user within the Website and provide you with an Account.

5.3 DISCLAIMER

You acknowledge and agree that:

- (a) any information provided to you as part of or in connection with the Web App is general in nature, may not be suitable for your circumstances and does not constitute financial, legal or any other kind of professional advice; and

- (b) it is your responsibility to comply with applicable Laws relevant to your business, including industrial relations Laws and privacy Laws.

5.4 WEB APP

- (a) While your Subscription is maintained, we grant to you a non-exclusive, non-transferable licence to use the Web App for the Number of Hives allowed under your Subscription Tier.
- (b) We may from time to time, in our absolute discretion, release enhancements to the Web App, meaning an upgraded, improved, modified or new versions of the Web App (**Enhancements**). Any Enhancements to the Web App will not limit or otherwise affect these Terms. Enhancements may cause downtime or delays from time to time, and credits will not be provided for such downtime.
- (c) We may change any features of the Web App at any time on notice to you.

5.5 SUPPORT SERVICES

We will provide general support where reasonably necessary to resolve technical issues with the Web App (**Support Services**). Unless otherwise agreed in writing:

- (a) we will take reasonable steps to provide Support Services where necessary (you must first endeavour to resolve any issues with the Web App internally and we will not assist with issues that are beyond our reasonable control);
- (b) we will use our best endeavours to respond to requests for Support Services and you acknowledge that we may not be available 24/7 or respond within a particular time frame;
- (c) you are responsible for all internal administration and managing access, including storing back-up passwords and assisting your Users to access and use the Web App; and
- (d) you will not have any claim for delay to your access to the Web App due to any failure or delay in Support Services.

6 WEB APP FUNCTIONALITY

6.1 AI FEATURES

- (a) The Web App may include AI Features to assist with hive management, Varroa pest monitoring, and related information.
- (b) You acknowledge and agree that:
 - (i) AI Features are provided for general informational purposes only and do not constitute professional, agricultural, veterinary, or pest management advice;
 - (ii) outputs generated by AI Features may be inaccurate, incomplete, or misleading;
 - (iii) reliance on AI Feature outputs is at your own risk;
 - (iv) we make no representation or warranty as to the accuracy, completeness, or suitability of AI Feature outputs, including any recommendations or guidance generated; and
 - (v) we are not responsible for any loss, damage, or liability arising from your use of, or reliance on, AI Features.

6.2 ACADEMY

- (a) The Web App may provide access to an educational program (**Academy**), which consists of short courses, tutorials, and learning modules (**Academy Materials**).
- (b) You acknowledge and agree that:
 - (i) Academy Materials are provided for general educational purposes only and are not a substitute for professional advice;
 - (ii) Academy Materials may include links to third-party websites or resources, over which we have no control;

- (iii) we make no representation or warranty as to the accuracy, completeness, or suitability of Academy Materials, including linked third-party content;
- (iv) your use of the Academy and Academy Materials and any actions taken based on them is at your own risk; and
- (v) we are not responsible for any loss, damage, or liability arising from your access to or reliance on the Academy or Academy Materials.

7 DATA HOSTING

We will store User Data you upload to the Web App using a third party hosting service selected by us (**Hosting Services**), subject to the following terms:

- (a) (**hosting location**) You acknowledge and agree that we may use storage servers to host the Web App through cloud-based services, and potentially other locations outside Australia.
- (b) (**service quality**) While we will use our best efforts to select an appropriate hosting provider, we do not guarantee that the Hosting Services will be free from errors or defects or that User Data will be accessible or available at all times.
- (c) (**security**) We will use our best efforts to ensure that User Data is stored securely. However, we do not accept responsibility or liability for any unauthorised use, destruction, loss, damage or alteration to User Data, including due to hacking, malware, ransomware, viruses, malicious computer code or other forms of interference.
- (d) (**backups & disaster recovery**) In the event that User Data is lost due to a system failure (e.g. a database or webserver crash), we cannot guarantee that any backup will be available, or if available that such a backup will be free from errors or defects.

8 CLIENT OBLIGATIONS

You agree to:

- (a) provide us with all documentation, information and assistance reasonably required by us to provide the Web App; and
- (b) provide us with access to any third party or other accounts used by you (including log-in details and passwords), as is reasonably required by us to provide the Web App.

8.2 CLIENT MATERIAL

- (a) You warrant that all information, documentation and other Material you provide to us for the purpose of receiving the Web App is complete, accurate and up-to-date.
- (b) You release us from all liability in relation to any loss or damage arising out of or in connection with the Web App, to the extent such loss or damage is caused or contributed to by information, documentation or any other Material provided by you being incomplete, inaccurate or out-of-date.

8.3 YOUR OBLIGATIONS

- (a) **You must, and must ensure that all Users, comply with these Terms at all times.** You acknowledge and agree that we will have no liability in respect of any damage, loss or expense which arises in connection with your, your Personnel's, or any User's, breach of these Terms, and you indemnify us in respect of any such damage, loss or expense.
- (b) You must not, and must not encourage or permit any User, Personnel or any third party to, without our prior written approval:
 - (i) upload sensitive information or commercial secrets using the Web App;
 - (ii) upload any inappropriate, offensive, illicit, illegal, pornographic, sexist, homophobic or racist material using the Web App;
 - (iii) use the Web App for any purpose other than for the purpose for which it was designed, including you must not use the Web App in a manner that is illegal or fraudulent or facilitates illegal or fraudulent activity (including requesting or accepting a job which includes illegal activities or purposes);

- (iv) upload any material that is owned or copyrighted by a third party;
 - (v) make copies of the Web App;
 - (vi) adapt, modify or tamper in any way with the Web App;
 - (vii) remove or alter any copyright, trade mark or other notice on or forming part of the Web;
 - (viii) act in any way that may harm our reputation or that of associated or interested parties or do anything at all contrary to the interests of us or the Web App;
 - (ix) use the Web App in a way which infringes the Intellectual Property Rights of any third party;
 - (x) create derivative works from or translate the Web App;
 - (xi) publish or otherwise communicate the Web App to the public, including by making it available online or sharing it with third parties;
 - (xii) integrate the Web App with third party data or Web App, or make additions or changes to the Web App, (including by incorporating APIs into the Web App) other than integrating in accordance with any instructions provided by us in writing;
 - (xiii) intimidate, harass, impersonate, stalk, threaten, bully or endanger any other User or distribute unsolicited commercial content, junk mail, spam, bulk content or harassment in connection with the Web App;
 - (xiv) sell, loan, transfer, sub-licence, hire or otherwise dispose of the Web App to any third party, other than granting a User access as permitted under these Terms;
 - (xv) decompile or reverse engineer the Web App or any part of it, or otherwise attempt to derive its source code;
 - (xvi) share your Account or Account information, including log in details or passwords, with any other person and that any use of your Account by any person who is not the account holder is strictly prohibited. You must immediately notify us of any unauthorised use of your Account, password or email, or any other breach or potential breach of the Web App's security;
 - (xvii) make any automated use of the Web App and you must not copy, reproduce, translate, adapt, vary or modify the Web App without our express written consent;
 - (xviii) attempt to circumvent any technological protection mechanism or other security feature of the Web App; or
 - (xix) use the Web App for any Hives exceeding the Number of Hives as set out under your Subscription Tier.
- (c) If you become aware of misuse of your Subscription by any person, any errors in the material on your Subscription or any difficulty in accessing or using your Subscription, please contact us immediately using the contact details or form provided on our Website.
- (d) You agree, and you must ensure that all Users agree:
- (i) to comply with each of your obligations in these Terms;
 - (ii) to sign up for an Account in order to use the Web App;
 - (iii) that information given to you through the Web App, by us or another User, is general in nature and we take no responsibility for anything caused by any actions you take in reliance on that information; and
 - (iv) that we may cancel your, or any User's, Account at any time if we consider, in our absolute discretion, that you or they are in breach of, or are likely to breach, this clause 8.

9 FEES AND PAYMENT

9.1 FREE SUBSCRIPTION TIER

We offer a basic and free Subscription Tier (**Free Subscription Tier**). No payments will be due during the Subscription Period for a Free Subscription Tier.

9.2 SUBSCRIPTION FEES

- (a) You must pay subscription fees to us in the amounts specified on the Website for your Subscription Tier, or as otherwise agreed in writing (**Subscription Fees**).
- (b) We currently offer Subscriptions on a monthly or annual basis. Annual Subscriptions may be offered at a discounted price compared to the equivalent monthly Subscriptions. We may change the availability, pricing, or discounts for Subscriptions at our discretion.
- (c) All Subscription Fees must be paid in advance and are non-refundable for change of mind.
- (d) Unless otherwise agreed in writing, the Subscription Fees are due and payable on a recurring basis for the duration of your Subscription, with the first payment being due on the first day of the Subscription Period and at the beginning of every Renewal Period thereafter.

9.3 AUTOMATIC RECURRING BILLING

Subject to clauses 9.4 and 9.5:

- (a) Your Subscription will continue to renew on an automatic indefinite basis unless you notify us that you wish to cancel in accordance with this clause 9.
- (b) While your Subscription is maintained, your Subscription Fees will continue to be debited at the beginning of each Renewal Period from the payment method you nominated when you registered for an Account.
- (c) By signing up for a recurring Subscription, you acknowledge and agree that your Subscription has an initial and recurring payment feature, and you accept responsibility for all recurring charges prior to your cancellation of your Subscription.

9.4 GRACE PERIOD

If you fail to cancel your Subscription prior to a Renewal Period and you are charged recurring charges, you have up to 10 Business Days from the date of that renewal to cancel your Subscription by contacting us through our Website (**Grace Period**). If you cancel your Subscription within the Grace Period, please contact us via our Website to request a refund for any recurring fees charged to you during the Grace Period.

9.5 CHANGES TO SUBSCRIPTION FEES

We may, from time to time, change our Subscription Fees and provide you with 10 Business Days' notice prior to the changes. During this time, you have the opportunity to cancel your Subscription with us. If you do not cancel your Subscription before the new Subscription Fees take effect, the Grace Period in clause 9.4 will apply.

9.6 LATE PAYMENTS

We reserve the right to suspend all or part of the Web App indefinitely if you fail to pay any Fees in accordance with this clause 9.

9.7 GST

Unless otherwise indicated, the Fees do not include GST. In relation to any GST payable for a taxable supply by us, you must pay the GST subject to us providing a tax invoice.

9.8 CARD SURCHARGES

We reserve the right to charge credit card surcharges in the event payments are made using a credit, debit or charge card (including Visa, MasterCard or American Express).

9.9 ONLINE PAYMENT PARTNER

- (a) We may use third-party online payment partner, currently Stripe (**Online Payment Partner**) to collect Subscription Fees.
- (b) Provided that we have notified you of such Third Party Terms and provided you with a copy of those terms, you acknowledge agree that:
 - (i) the processing of payments by the Online Payment Partner will be, in addition to this agreement, subject to the terms, conditions and privacy policies of the Online Payment Partner, which can be found [here](#);
 - (ii) you release us and our Personnel in respect of all liability for loss, damage or injury which may be suffered by any person arising from any act or omission of the Online Payment Partner, including any issue with security or performance of the Online Payment Partner's platform or any error or mistake in processing your payment; and
 - (iii) We reserve the right to correct, or to instruct our Online Payment Partner to correct, any errors or mistakes in collecting your payment.
- (b) You have the right to reject any terms and conditions of the Online Payment Partner. If you reject those terms, we cannot provide you with the Subscription and clause 16 will apply.

10 INTELLECTUAL PROPERTY AND DATA

10.1 WEB APP CONTENT INTELLECTUAL PROPERTY

- (a) (**Our ownership**) We retain ownership of all Materials provided to you throughout the course of your Subscription in connection with the Web App (including text, graphics, logos, design, icons, images, sound and video recordings, pricing, downloads and software) (**Web App Content**) and reserve all rights in any Intellectual Property Rights owned or licensed by us in the Web App Content not expressly granted to you.
- (b) (**Licence to you**) You are granted a licence to the Web App Content, for the Number of Hives, and you may make a temporary electronic copy of all or part of any materials provided to you for the sole purpose of viewing them and using them for the purposes of the Web App. You must not otherwise reproduce, transmit, adapt, distribute, sell, modify or publish those materials or any Web App Content without prior written consent from us or as otherwise permitted by law.

10.2 ACADEMY MATERIALS

- (a) (**Ownership**) We retain all right, title, and interest in any Academy Materials that we create or control, including any Intellectual Property Rights therein. You acknowledge that you acquire no ownership or other rights in any Academy Materials.
- (b) (**Third-Party Content**) Academy Materials may include content or links provided by third parties. We do not own this third-party content and provide it for educational purposes only. We make no representations or warranties regarding third-party content, including its accuracy, completeness, or suitability, and we are not responsible for any loss or damage arising from your use of it.
- (c) (**Licence to You**) Subject to your Subscription Tier, we grant you a limited, non-exclusive, non-transferable licence during the Subscription Period (and any Renewal Period) to access and use the Academy Materials we control solely for your personal, educational purposes within the Web App. You may make a temporary electronic copy of Academy Materials for viewing or use within the Academy.
- (d) (**Restrictions**) You must not otherwise reproduce, distribute, adapt, modify, publish, sell, or create derivative works of Academy Materials we control without our prior written consent, or as otherwise permitted by law.

10.3 USER DATA

Our Rights and Obligations

- (a) You grant to us (and our Personnel) a non-exclusive, royalty free, non-transferable, worldwide and irrevocable licence to use User Data to the extent reasonably required to provide the Web App, and for our internal business purposes, including to improve the Web App and our other products and services, and including to apply machine learning and other analytics processes to the User Data, to gain commercial insights and other associated learnings, and to improve the Web App, our business and our other products and services.
- (b) We reserve the right to remove any User Data at any time, for any reason, including where we deem User Data to be inappropriate, offensive, illicit, illegal, pornographic, sexist, homophobic or racist.

Your Obligations and Grant of Licence to Us

- (c) You are responsible for ensuring that:
 - (i) you share User Data only with intended recipients; and
 - (ii) all User Data is appropriate and not in contravention of these Terms.
- (d) You:
 - (i) warrant that our use of User Data will not infringe any third-party Intellectual Property Rights; and
 - (ii) indemnify us from and against all losses, claims, expenses, damages and liabilities (including any taxes, fees or costs) which arise out of such infringement.

11 THIRD PARTY SOFTWARE & TERMS

11.1 THIRD PARTY TERMS

- (a) If we are required to acquire goods or services supplied by a third party, you may be subject to the terms and conditions of that third party ('**Third Party Terms**').
- (b) Currently, Third Party Terms you may be subject to includes:
 - (i) [Anthropic](#);
 - (ii) [Supabase](#);
 - (iii) [Stripe](#); and
 - (iv) [Github](#); and
 - (v) [Cloudflare](#).
- (c) Provided that we have notified you of such Third Party Terms and provided you with a copy of those terms, you agree to any Third Party Terms applicable to any goods or services supplied by a third party that we acquire as part of providing the Web App to you and we will not be liable for any loss or damage suffered by you in connection with such Third Party Terms.
- (d) You have the right to reject any Third Party Terms. If you reject the Third Party Terms, we cannot provide the Web App to you and clause 16 will apply.

11.2 THIRD PARTY SOFTWARE INTEGRATIONS

- (a) You acknowledge and agree that issues can arise when data is uploaded to software, when data is transferred between different software programs, and when different software programs are integrated together. We cannot guarantee that integration processes between the Web App and other software programs will be free from errors, defects or delay.
- (b) You agree that we will not be liable for the functionality of any third party goods or services, including any third party software, or for the functionality of the Web App if you integrate it with third party software, or change or augment the Web App, including by

making additions or changes to the Web App code, and including by incorporating APIs into the Web App.

- (c) If you add third party software or software code to the Web App, integrate the Web App with third party software, or make any other changes to the Web App, including the Web App code (**User Web App Changes**), then:
- (i) you acknowledge and agree that User Web App Changes can have adverse effects on the Web App, including the Web App;
 - (ii) you will indemnify us in relation to any loss or damage that arises in connection with the User Web App Changes;
 - (iii) we will not be liable for any failure in the Web App, to the extent such failure is caused or contributed to by a User Web App Change;
 - (iv) we may require you to change or remove User Web App Changes, at our discretion, and if we do so, you must act promptly;
 - (v) we may suspend your access to the Web App until you have changed or removed User Web App Change; and/or
 - (vi) we may change or remove any User Web App Change, in our absolute discretion. We will not be liable for loss of data or any other loss or damage you may suffer in relation to our amendment to, or removal of, any User Web App Change.

12 CONFIDENTIALITY

- (a) Except as contemplated by these Terms, a party must not, and must not permit any of its Personnel, use or disclose to any person any Confidential Information disclosed to it by the other party without the disclosing party's prior written consent.
- (b) Each party must promptly notify the other party if it learns of any potential, actual or suspected loss, misappropriation or unauthorised access to, or disclosure or use of Confidential Information or other compromise of the security, confidentiality, or integrity of Confidential Information.
- (c) The notifying party will investigate each potential, actual or suspected breach of confidentiality and assist the other party in connection with any related investigation.

13 PRIVACY

- (a) We collect personal information about you in the course of providing you with the Web App, to contact and communicate with you, to respond to your enquiries and for other purposes set out in our Privacy Policy which can be found at <https://varroamate.com>.
- (b) Our Privacy Policy contains more information about how we use, disclose and store your personal information and details how you can access and correct your personal information.
- (c) By agreeing to these Terms, you agree to our handling of personal information in accordance with our Privacy Policy.

14 LIABILITY

14.1 WARRANTIES AND LIMITATIONS

- (a) (**Warranties**) We warrant that:
 - (i) during the Subscription Period, the Web App will perform substantially in accordance with how it is described on the Website;
 - (ii) during the Subscription Period, the Web App will be provided as described to you in, and subject to, these Terms; and
 - (iii) to our knowledge, the use of the Web App in accordance with these Terms will not infringe the Intellectual Property Rights of any third party.

- (b) **(Errors)** We will correct any errors, bugs or defects in the Web App which arise during your Subscription and which are notified to us by you, unless the errors, bugs or defects:
 - (i) result from the interaction of the Web App with any other solution or computer hardware, software or services not approved in writing by us;
 - (ii) result from any misuse of the Web App; or
 - (iii) result from the use of the Web App by you other than in accordance with these Terms.
- (c) **(Service Limitations)** While we will use our best endeavours to ensure the Web App is working for its intended purpose, you acknowledge and agree that from time to time, you may encounter the following issues:
 - (i) the Web App may have errors or defects;
 - (ii) the Web App may not be accessible at times;
 - (iii) messages sent through the Web App may not be delivered promptly, or delivered at all;
 - (iv) information you receive or supply through the Web App may not be secure or confidential; or
 - (v) any information provided through the Web App may not be accurate or true.
- (d) **(Exclusion)** To the maximum extent permitted by applicable law, all express or implied representations and warranties not expressly stated in these Terms are excluded.
- (e) **(Consumer law)** Nothing in these Terms is intended to limit the operation of the Australian Consumer Law contained in the *Competition and Consumer Act 2010* (Cth) (**ACL**). Under the ACL, the Client may be entitled to certain remedies (like a refund, replacement or repair) if there is a failure with the goods or services provided.

14.2 LIABILITY

- (a) To the maximum extent permitted by law and subject to clause 14.2(b), the total liability of each party in respect of loss or damage sustained by the other party in connection with these Terms or the Web App is limited to:
 - (i) the total Fees paid to us by you in the 12 months preceding the date of the event giving rise to the relevant liability; or
 - (ii) if no Fees have been paid, \$100AUD.
- (b) Clause 14.2(a) does not apply to your liability in respect of loss or damage sustained by us arising from your breach of clauses 8, 10 and 12.

14.3 CONSEQUENTIAL LOSS

To the maximum extent permitted by law, neither party will be liable for any incidental, special or consequential loss or damages, or damages for loss of data, business or business opportunity, goodwill, anticipated savings, profits or revenue in connection with these Terms or any goods or services provided by us, except:

- (a) in relation to a party's liability for fraud, personal injury, death or loss or damage to tangible property; or
- (b) to the extent this liability cannot be excluded under the *Competition and Consumer Act 2010* (Cth).

15 UPGRADE AND DOWNGRADES

- (a) You may notify us that you would like to upgrade or downgrade your Subscription Tier or the Number of Hives at any time. If you do, we will:
 - (i) take reasonable steps to promptly provide you with access to the new Subscription Tier or increased Number of Hives; and
 - (ii) upon providing such access, we may:

- (A) apply the new, relevant Subscription Fees, to the Renewal Period immediately following the period in which your access to the new Subscription Tier or additional Number of Hives was provided; or
- (B) at our discretion, prorate the Subscription Fees or charge an additional fee to account for the upgrade for the remainder of the current Renewal Period.

You will be charged the new Subscription Fee in every subsequent Renewal Period.

- (b) If you choose to downgrade your Subscription or Number of Hives:
 - (i) the downgrade will take effect at the start of the next Renewal Period, unless we notify you otherwise; and
 - (ii) the applicable reduced Subscription Fees will apply from that Renewal Period. We generally do not pro-rate downgrades during a current Renewal Period, but we reserve the right to do so at our discretion.
- (c) If you downgrade your Subscription Tier or reduce your Number of Hives, you acknowledge and agree that:
 - (i) your access to certain features, functionality, or capacity may be reduced;
 - (ii) where your number of active Hives exceeds the permitted Number of Hives under your downgraded Subscription Tier, you may be required to reduce, archive, or remove Hives to comply with that limit; and
 - (iii) we are not liable for, and you release us from, any loss of content, functionality, or data (including User Data) resulting from such downgrade or your need to comply with the applicable Number of Hives limit.
- (d) Without limiting the above, we may (acting reasonably) enforce the Number of Hives limit by restricting your ability to register additional Hives, or requiring you to reduce the number of active Hives, until you comply with your Subscription Tier.

16 CANCELLATION

16.1 CANCELLATION AT ANY TIME

Either party may cancel or terminate your Subscription for convenience by providing 10 Business Days' notice to the other party.

16.2 CANCELLATION FOR BREACH

- (a) Either party may cancel your Subscription immediately by written notice if there has been a Breach of these Terms.
- (b) A "**Breach**" of these Terms means:
 - (i) a party (**Notifying Party**) considers the other party (or any of its Personnel or Users) is in breach of these Terms and notifies the other party;
 - (ii) the other party is given 10 Business Days to rectify the breach; and
 - (iii) the breach has not been rectified within 10 Business Days or another period agreed between the parties in writing.

16.3 EFFECT OF TERMINATION

Upon termination of this agreement:

- (a) you will no longer have access to the Web App, your Account or your User Data and we will have no responsibility to store or otherwise retain any User Data (and you release us in respect of any loss or damage which may arise out of us not retaining any User Data beyond that point);
- (b) unless agreed in writing, any Subscription Fees that would otherwise have been payable after termination for the remainder of the relevant Renewal Period will remain payable

and, to the maximum extent permitted by law, no Subscription Fees already paid will be refundable; and

- (c) each party must comply with all obligations that are by their nature intended to survive the end of this agreement.

17 DISPUTE RESOLUTION

- (a) A party claiming that a dispute has arisen under or in connection with this agreement must not commence court proceedings arising from or relating to the dispute, other than a claim for urgent interlocutory relief, unless that party has complied with the requirements of this clause.
- (b) A party that requires resolution of a dispute which arises under or in connection with this agreement must give the other party or parties to the dispute written notice containing reasonable details of the dispute and requiring its resolution under this clause.
- (c) Once the dispute notice has been given, each party to the dispute must then use its best efforts to resolve the dispute in good faith. If the dispute is not resolved within a period of 14 days (or such other period as agreed by the parties in writing) after the date of the notice, any party to the dispute may take legal proceedings to resolve the dispute.

18 FORCE MAJEURE

- (a) We will not be liable for any delay or failure to perform its obligations under this agreement if such delay or failure arises out of a Force Majeure Event.
- (b) If a Force Majeure Event occurs, we must use reasonable endeavours to notify you of:
 - (i) reasonable details of the Force Majeure Event; and
 - (ii) so far as is known, the probable extent to which We will be unable to perform or be delayed in performing its obligations under this agreement.
- (c) Subject to compliance with clause 18(b), our relevant obligation will be suspended during the Force Majeure Event to the extent that it is affected by the Force Majeure Event.
- (d) For the purposes of this agreement, a 'Force Majeure Event' means any:
 - (i) act of God, lightning strike, meteor strike, earthquake, storm, flood, landslide, explosion or fire;
 - (ii) strikes or other industrial action outside of the control of us;
 - (iii) war, terrorism, sabotage, blockade, revolution, riot, insurrection, civil commotion, epidemic, pandemic; or
 - (iv) any decision of a government authority in relation to COVID-19, or any threat of COVID-19 beyond the reasonable control of us, to the extent it affects our ability to perform our obligations.

19 NOTICES

- (a) A notice or other communication to a party under these Terms must be:
 - (i) in writing and in English; and
 - (ii) delivered via email to the other party, to the email address specified in the Order, or if no email address is specified in the Order, then the email address most regularly used by the parties to correspond regarding the subject matter of this agreement as at the date of this agreement (**Email Address**). The parties may update their Email Address by notice to the other party.
- (b) Unless the party sending the notice knows or reasonably ought to suspect that an email was not delivered to the other party's Email Address, notice will be taken to be given:
 - (i) 24 hours after the email was sent, unless that falls on a Saturday, Sunday or a public holiday in the state or territory whose laws govern this agreement, in which case the notice will be taken to be given on the next occurring business day in that state or territory; or

- (ii) when replied to by the other party,
whichever is earlier.

20 GENERAL

20.1 GOVERNING LAW AND JURISDICTION

This agreement is governed by the law applying in Victoria, Australia. Each party irrevocably submits to the exclusive jurisdiction of the courts of Victoria, Australia and courts of appeal from them in respect of any proceedings arising out of or in connection with this agreement. Each party irrevocably waives any objection to the venue of any legal process on the basis that the process has been brought in an inconvenient forum.

20.2 WAIVER

No party to this agreement may rely on the words or conduct of any other party as a waiver of any right unless the waiver is in writing and signed by the party granting the waiver.

20.3 SEVERANCE

Any term of this agreement which is wholly or partially void or unenforceable is severed to the extent that it is void or unenforceable. The validity and enforceability of the remainder of this agreement is not limited or otherwise affected.

20.4 JOINT AND SEVERAL LIABILITY

An obligation or a liability assumed by, or a right conferred on, two or more persons binds or benefits them jointly and severally.

20.5 ASSIGNMENT

A party cannot assign, novate or otherwise transfer any of its rights or obligations under this agreement without the prior written consent of the other party.

20.6 ENTIRE AGREEMENT

This agreement embodies the entire agreement between the parties and supersedes any prior negotiation, conduct, arrangement, understanding or agreement, express or implied, in relation to the subject matter of this agreement.

20.7 INTERPRETATION

- (a) **(singular and plural)** words in the singular includes the plural (and vice versa);
- (b) **(currency)** a reference to \$; or “dollar” is to Australian currency;
- (c) **(gender)** words indicating a gender includes the corresponding words of any other gender;
- (d) **(defined terms)** if a word or phrase is given a defined meaning, any other part of speech or grammatical form of that word or phrase has a corresponding meaning;
- (e) **(person)** a reference to “person” or “you” includes an individual, the estate of an individual, a corporation, an authority, an association, consortium or joint venture (whether incorporated or unincorporated), a partnership, a trust and any other entity;
- (f) **(party)** a reference to a party includes that party’s executors, administrators, successors and permitted assigns, including persons taking by way of novation and, in the case of a trustee, includes any substituted or additional trustee;
- (g) **(this agreement)** a reference to a party, clause, paragraph, schedule, exhibit, attachment or annexure is a reference to a party, clause, paragraph, schedule, exhibit, attachment or annexure to or of this agreement, and a reference to this agreement includes all schedules, exhibits, attachments and annexures to it;
- (h) **(document)** a reference to a document (including this agreement) is to that document as varied, novated, ratified or replaced from time to time;

- (i) **(headings)** headings and words in bold type are for convenience only and do not affect interpretation;
- (j) **(includes)** the word “includes” and similar words in any form is not a word of limitation; and
- (k) **(adverse interpretation)** no provision of this agreement will be interpreted adversely to a party because that party was responsible for the preparation of this agreement or that provision.

21 DEFINITIONS

Term	Definition
Confidential Information	means information of or provided by a party that is by its nature is confidential information, is designated by that party as confidential, or that the other party knows or ought to know is confidential, but does not include information, which is or becomes, without a breach of confidentiality, public knowledge.
Hive	means a single bee hive that you may register, manage, or maintain in the Web App as part of your Subscription. Each Hive counts toward the maximum Number of Hives permitted under your Subscription Tier.
Hosting Services	has the meaning given in clause 7.
Intellectual Property Rights	means any and all present and future intellectual and industrial property rights throughout the world (whether registered or unregistered), including copyright, trade marks, designs, patents, moral rights, semiconductor and circuit layout rights, trade, business, company and domain names, and other proprietary rights, trade secrets, know-how, technical data, confidential information and the right to have information kept confidential, or any rights to registration of such rights (including renewal), whether created before or after the date of this agreement.
Material	means tangible and intangible information, documents, reports, software (including source and object code), inventions, data and other materials in any media whatsoever.
Number of Hives	means the maximum number of bee hives that you may register, manage, or maintain in the Web App at any given time, in accordance with your Subscription Tier.
Personnel	means, in respect of a party, its officers, employees, contractors (including subcontractors) and agents.
Web App	has the meaning given in the first paragraph of these Terms.
Web App Content	has the meaning set out in clause 10.1(a).
Subscription	has meaning given in the first paragraph of these Terms.
Subscription Fees	has the meaning set out in clause 9 of these Terms.
Subscription Period	means the period of your Subscription to the Web App as agreed on the Website.
Subscription Tier	has the meaning given in the first paragraph of these Terms.
Support Services	has the meaning given in clause 5.5.
User	means you and any third party end user of the Web App who you make the Web App available to.
User Data	means any files, data, document, information or any other Materials, which is uploaded to the Web App by you or any other User or which you, your Personnel or Users otherwise provide to us under or in connection with these Terms, including any Intellectual Property Rights attaching to those materials.

Term	Definition
Website	means the website at the URL set out in the first paragraph of these Terms, and any other website operated by us in connection with the Web App.