



## Aacapella Terms of Use

In this document ‘**Aacapella**’ means Aacapella Holdings Pty Ltd, ABN 58624655027 and its associated companies.

This agreement is governed by the law of New South Wales, Australia, and each party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of New South Wales, Australia.

These Terms of Use outline the general conditions of use of Aacapella’s websites, the Aacapella Read application and other services that may be provided by Aacapella. In the rest of this document, we will use the term ‘**Services**’ to mean these services and products individually and collectively as is appropriate in the context.

Anonymous users may view and interact with our public websites (‘**Public Materials**’) without logging in. In the rest of this document, we will use the term ‘**Anonymous Users**’ to mean these users.

When users have registered an account with Aacapella, they have access to expanded Services (‘**Member Materials**’) which they access by logging in to the Aacapella environment. In the rest of this document, we will use the term ‘**Registered Users**’ to mean these users individually and collectively as is appropriate in the context.

## Amendments to the Terms of Use

Our terms of Use may be changed from time to time. When we make changes to our Terms of Use, we will notify you of the changes by posting the revised version on our website. If you do not agree to the amended Terms of Use, you may not continue to access or use the Services.

## Acknowledgement and Acceptance

This document (‘**Terms of Use**’) constitutes a legally binding agreement (‘**User Agreement**’) between you and Aacapella. Proceeding to use the Services, whether logged in or not, requires that you understand the Terms of Use, Privacy Policy and Cookies Policy and agree to use (‘**Access**’) the Services in accordance with these documents. If you do not agree to the Terms of Use and its amendments, you may not continue to access or use the Services.

## Privacy Policy

The Aacapella Privacy Policy (‘**Privacy Policy**’) is incorporated into this User Agreement by reference and provides additional terms and conditions related to our use, collection and disclosure of your personal information. Our Privacy Policy may be changed from time to time. When we make changes to this Privacy Policy, we will notify you of the changes by posting the revised version on our website.

## Links from other websites

If you are directed to an Aacapella website from another external website or application, the Aacapella Terms of Use apply from the time that you arrive at the Aacapella website.



## Links to other websites

If you activate a link within the Services that takes you to a website outside of the Services, you must abide by the Terms of Use of that website of application, which may be different to the Acapella Terms of Use. You are responsible for understanding and accepting the Terms of Use and Privacy Policy of any website or application that is not part of the Acapella services.

## Apple App Store

Acapella Read is downloaded by users from the Apple App Store. When you visit the Apple App Store to download Acapella Read your use of the App Store is subject to Apple's Terms of Use and Privacy Policy. Please ensure that you are familiar with the Apple App Store Apple's Terms of Use and Privacy Policy before using their services.

## User Registration

An Anonymous User can become a Registered User by following the registration process on our website. There is no cost to the user when they register.

When you register an account with Acapella, you will be asked to provide your email address (your 'Username', a password, and to establish a means of identifying yourself ('Multi Factor Identification' or 'MFI')). These measures help to keep your account, personal information and the Acapella environment secure and free from malicious actors.

Anonymous Users are restricted to accessing Public Materials.

Registered Users can access Member Materials, but only those that are associated with their user account.

## Security of Your Account

Please keep your password in a safe place. Acapella recommends the use of a password manager.

We will use your Username, Password and MFI to log you into our website and into Acapella Read. If you forget your password, you may reset it on our website. You are responsible for maintaining the confidentiality of your Account, and for all activities that occur through the use of your Account. You agree to immediately notify Acapella of any unauthorised use of your Account or any other breach of security. Acapella will not be liable for any loss or damage arising from your failure to comply with this section.

You may be issued a new password or required to change your password from time to time.

Acapella has put physical, electronic and managerial procedures into place to help safeguard and prevent unauthorised access, use and/or disclosure of your personally identifiable information. Although we use reasonable efforts to safeguard the security of your personally identifiable information, transmissions made on or through the internet and personally identifiable information stored on our servers or the servers of third parties that we use are vulnerable to attack and cannot be guaranteed to be secure. In addition, submissions made via email are not protected by encryption and are vulnerable to



interception during transmission. Acapella disclaims responsibility for all negligent acts that may result in disclosure of your personal information.

## Registered User Account

A Registered User Account is free of charge and allows the user access to their personalised Home Page on the Acapella website. From their Home Page, Registered Users have access to some other parts of the website, including the Community Forum and Shop (but only to browse, not to buy).

User Accounts, usernames and passwords are not transferable.

## School Account

A School Account is free to set up, and allows a School Administrator to:

- Administer the School Account
- invite Registered Users to join the School ('School Members');
- assign roles to School Members;
- create Teacher subscriptions;
- create Student subscriptions;
- create Classes and assign Teachers and Students to classes.
- create a payment method.

The creation of School Account requires the consent of a member of the school executive (generally the Principal or Deputy Principal).

For the purpose of School Accounts, a School is defined as any educational institution.

## Family Account

*Note: Family Accounts will not be available until 2027.*

A Family Account is free to set up, and allows a Family Administrator to:

- Administer the Family Account
- invite Registered Users to join the Family ('Family Members');
- assign roles to Family Members;
- create Parent subscriptions;
- create Child subscriptions;
- create a payment method.

## Consultancy Account

A Consultancy Account is free to set up, and allows a Consultancy Administrator to:

- Administer the Consultancy Account
- invite Registered Users to join the Consultancy ('Consultancy Members');



- assign roles to Consultancy Members;
- create Student assessments;

## Registration Period

Registration with Acapella is perpetual, or until you or Acapella terminate the Registered User's account.

You may terminate your account at any time, except that if:

- you are the sole Family Member in a Family that has one or more children with a current subscription, before you can terminate your account you must either
  - invite another Registered User to join the Family as Family Administrator; or
  - terminate all child subscriptions for the Family.
- you are the sole School Member in a School that has one or more teachers or students with a current subscription, before you can terminate your account you must either
  - invite another Registered User to join the School as School Administrator; or
  - terminate all teacher and student subscriptions for the School.

Acapella may terminate or suspend your Account and/or access to all or part of its Services if:

- it has been inactive for twelve months or more;
- it determines after reasonable investigation that:
  - you have breached this User Agreement;
  - your conduct violates applicable law or is otherwise harmful to the interests of Acapella or other third parties;
  - Acapella ceases to provide the Services.

## Ownership of Intellectual Property and Restrictions on Use of Acapella Materials

All products, services, content, information displayed, performed or otherwise accessible through the Services, including, without limitation, Games, Public Materials, Member Materials, together with all digital images contained on the website, Software (as defined below), designs, texts, databases, images, photographs, illustrations, audio clips, video clips, artwork, graphic material, animation, and any copyrightable and/or patentable elements, and the selection and arrangements thereof, and all trademarks, service marks, trade names, trade dress and patents, (collectively the 'Acapella Materials') are the property of Acapella, its partners, affiliates, publishers and suppliers and/or any of their successors and assigns and are protected, without limitation, by copyright, trademark and patent laws throughout the world. Without limiting the generality of any other provisions of this User Agreement, the use of any Acapella Materials on any other website or networked computer environment is prohibited.

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contained herein shall be construed as conferring any other right. You may not use the Acapella Materials in a manner that suggests an association with any of our products. You may not make any modifications to any Acapella Materials other than as expressly permitted by us.

Without limiting the generality of the foregoing, you agree that you shall not:

- a) download or copy any Website pages, except as may occur through the normal caching function of your browser and except to print and retain a copy of the pages of this Website for your own personal, non-commercial use;
- b) download or copy Website information for the commercial benefit of you or a third party;
- c) make any resale or commercial use of the Services or the Acapella Materials;
- d) publish any collection or compilation of any product listings, descriptions, or prices;
- e) create any derivative work of the Services or their contents;
- f) use any data mining tools, robots, or similar data-gathering and extraction devices with respect to The Services and the information contained therein;
- g) frame or use framing techniques to enclose any trademark, logo, trade name or other content (including images, text, page layout, or form) of Acapella; or
- h) use any meta tags or any other “hidden text” utilising the trademarks, logos, trade names or content of Acapella

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If you download, access or use Acapella Read from the Apple App Store, the application (‘Application’), including any files, codes, images, book texts and illustrations, video and audio files incorporated in or imported by the Application, and data accompanying the Application are licensed to you for your personal, non-commercial use as a personal, non-exclusive, non-assignable, non-transferable license. Acapella keeps full and complete title to the Application and all intellectual property rights therein. You may not redistribute, sell, lend, disassemble or otherwise render the Application. Any unauthorised or prohibited use may subject you to civil liability and criminal prosecution under applicable laws.

Acapella has the right to vary, modify, change or discontinue:

- a) any feature or function offered on our Websites and in our Applications;
- b) any part or all of our Websites and Applications, including hours of availability; and
- c) to restrict access to parts or all of our Websites and Applications from time to time with or without notice to you.

Acapella may make available and upgrade its Websites and Applications on the same terms and conditions as this User Agreement and any such upgrades will form part of the Websites and Applications.



You may be required, at your own cost, to install specific software on your computer to view parts of our Websites.

You may be required, at your own cost, to use specific computer equipment, and to keep its operating systems up-to-date by downloading and installing operating system updates in a timely manner when they are released to access our Applications, including upgrades.

## Aacapella Community Forum

The Aacapella Community Forum (Forum) is accessed from within the Aacapella Websites. Access is restricted to Registered Users. The Forum is operated by an external party and requires a separate login process to be followed.

Within the Forum, users are identified by their first name and last name which were provided to Aacapella at the time of registration. Anonymous use of the Forum is not permitted.

The Forum has its own Terms of Use which governs how you may interact with the Forum and other users of the Forum. You should read the Forum Terms of Use prior to entering the Forum.

## User Code of Conduct

Aacapella Websites are intended to be used in a safe and enjoyable fashion. You are responsible for the content of any material you enter on our Websites. Users of Aacapella Websites must not:

- a) Use our Websites in such a way as to offend or interfere with the use by anyone else of these Websites;
- b) Upload, submit, publish, transmit, display, disseminate or otherwise communicate any materials while connected to or otherwise using our Websites that:
  - i). are defamatory, libellous or inaccurate,
  - ii). are abusive or threatening towards or invade the privacy of any third party,
  - iii). which are offensive, obscene or pornographic;
  - iv). infringe the intellectual property rights, including copyrights, of any third party;
  - v). violate any law or regulation;
  - vi). advocate illegal activity;
  - vii). advertise or otherwise solicit funds or are a solicitation for goods or services; or
  - viii). are treated as confidential under any contract or policy;
- c) Attempt to circumvent the security systems of our Websites;
- d) Attempt to use our Websites in a fraudulent manner, including but not limited to, access to our Websites or information or images that have not yet been officially announced or incorporated into our Websites' functionality.
- e) Attempt to gain access to any other Registered User's Accounts;



- f) Attempt to ascertain any other user's password and/or personal information by any means whatsoever, including without limitation, by use of our Websites or any other website, or by email communication;
- g) Attempt to harvest or otherwise collect information about other users without their consent;
- h) Attempt to use our Websites for any purposes other than those intended by Acapella; or
- i) Upload or submit any data or information that contains viruses or any other computer code, corrupt files or programs designed to interrupt, destroy or limit the functionality or disrupt any software, hardware, telecommunications, networks, servers or other equipment.

## Spam

The publication of electronic mail addresses on our Websites is to facilitate communications relating to the functions of those Websites and must not be inferred as consent by us to receiving unsolicited commercial electronic messages.

## Email and Cell/Mobile Phone Communications

By supplying your email address and/or mobile phone number upon registration with Acapella, you consent to receive promotional and/or program update emails from Acapella. You may opt out of these emails and/or phone communications at any time by following the specific opt out instructions on the Communications Page of our website.

## Disclaimers

The use of our Services is at your own risk. To the fullest extent permitted by law, Acapella Services are provided without warranties or representations of any kind. To the fullest extent permitted by law, Acapella disclaims all warranties, representations and conditions, either express or implied, including without limitation implied warranties of merchantability, non-infringements or fitness for a particular purpose, in connection with the Services, their contents, products or services made available through the Services or associated with the use of the Services, or any website or contents with which the Services may be linked.

Acapella does not warrant that the Services or any other services or websites to which the Services are linked will be available at any particular time, will be provided in an uninterrupted or error-free manner or will be corrected if found to be defective. We reserve the right to modify and/or discontinue all or part of our Services at any time without notice. To the extent that you communicate with our employees or contractors (including customer service representatives, sales representatives, educational advisors) by any means the statements, promises or actions taken by these persons shall not limit or otherwise modify the terms of this disclaimer and these Terms of Use shall apply to any information provided to you by such persons.

Acapella does not warrant that the Services will work with any particular hardware or software systems or configurations or are free from viruses or other harmful components.

Acapella does not warrant or make any representations regarding the use of any analysis of data, statistics, advice, or other information in terms of correctness, accuracy, reliability, timeliness or



otherwise. The entire risk as to the quality, accuracy, adequacy, completeness, correctness and validity of the Services and their content rests with you. If your use of the Services results in the need for servicing, updating or replacing your equipment, software or operating system, you are responsible for performing those actions and all costs associated with those actions.

## Limitations of Liability

To the fullest extent permitted by law, under no circumstances, including but not limited to negligence, shall Aacapella be liable for any loss of use, loss of data, loss of income or profit, loss of or damage to property, or for any damages of any kind or character (including without limitation any compensatory, incidental, direct, indirect, special, punitive, or consequential damages), arising out of or in connection with the use of, or the inability to use, the Services, goods or services purchased through interaction with the Services, books, files, data or information used in or by the Services even if Aacapella has been advised of the possibility of such damages or losses. Without limiting the foregoing, Aacapella is not responsible or liable for any infections or contaminations of your system, or delays, inaccuracies, errors or omissions arising out of your use of the Services.

Applicable law may not allow the limitation or exclusion of liability or incidental or consequential damages, so the above limitation or exclusion may not apply to you. However, in no event shall the total liability of Aacapella for all damages, losses and causes of action and costs and expenses (including legal fees) whether in contract, tort (including but not limited to negligence), or otherwise, related to your use of, or the inability to use, the Services, purchased items or any of the Aacapella Materials or functions on the Services, exceed the lesser of (i) the amount, if any, paid by you in connection with your access, use and/or purchases made on this website or (ii) USA\$100.

Notwithstanding the generality of the above, Aacapella does not seek to limit their liability in respect of fraud or for death or personal injury caused by Aacapella's negligence or that of its employees or agents acting in their capacity as employees or representatives.

## Indemnity

You hereby agree to indemnify and hold each member of Aacapella harmless from and against any loss, liability, claim, demand, damages, costs and expenses, including all legal fees, which any member of the group may incur in connection with any claim arising out of or resulting from: (i) any breach by you of this user agreement; (ii) your use of this website, your account and/or your submission of user content; (iii) your purchase of any item from Aacapella; and/or (iv) any violation by you of any law or the rights of any third party. You must use your best efforts to cooperate with Aacapella in the defence of any claim. We reserve the right to assume the exclusive defence and control of any matter otherwise subject to indemnification by you.