

**SoWell™ - Terms of Use**

**CAREFULLY READ THESE TERMS & CONDITIONS BEFORE ORDERING**

PLEASE READ THESE TERMS AND CONDITIONS CAREFULLY BEFORE USING THIS SITE, AS THEY DESCRIBE YOUR LEGAL RIGHTS AND RESPONSIBILITIES, REMEDIES, AND OBLIGATIONS, AND IN PARTICULAR, YOUR AGREEMENT THAT: (1) ANY AND ALL CLAIMS AND DISPUTES YOU MAY HAVE WITH SOWELL SHALL BE RESOLVED EXCLUSIVELY BY AND THROUGH BINDING ARBITRATION AND THAT YOU WAIVE ANY RIGHTS TO HAVE CLAIMS AND DISPUTES AGAINST SOWELL RESOLVED BY A JURY OR IN A COURT OF LAW; AND (2) YOU CAN ONLY PURSUE CLAIMS AND DISPUTES AGAINST SOWELL AND/OR SEEK RELIEF (INCLUDING MONETARY, INJUNCTIVE, OR DECLARATORY RELIEF) AGAINST SOWELL ON AN INDIVIDUAL BASIS AND NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY CLASS OR REPRESENTATIVE ACTION OR PROCEEDING.

**IF YOU HAVE A MEDICAL EMERGENCY, IMMEDIATELY CALL YOUR DOCTOR OR DIAL 911.**

**1. ACCEPTANCE OF THESE TERMS AND CONDITIONS**

**BY CLICKING “I AGREE,” CHECKING A RELATED BOX TO SIGNIFY YOUR ACCEPTANCE, USING ANY OTHER ACCEPTANCE PROTOCOL PRESENTED THROUGH OR ON THE SITES, MAKING A PURCHASE FROM US, OR OTHERWISE AFFIRMATIVELY ACCEPTING THESE TERMS AND CONDITIONS, YOU ACKNOWLEDGE THAT YOU HAVE READ, ACCEPTED, AND AGREE TO BE BOUND AND ABIDE BY THESE TERMS AND CONDITIONS. YOU HEREBY GRANT AGENCY AUTHORITY TO ANY PARTY WHO CLICKS ON THE “I AGREE” BUTTON OR OTHERWISE INDICATES ACCEPTANCE TO THESE TERMS AND CONDITIONS ON YOUR BEHALF.**

**IF YOU ARE NOT WILLING TO BE BOUND BY THESE TERMS, INCLUDING THE DISCLAIMERS AND WAIVER OF RIGHT TO SUE IN COURT, HAVE A JURY TRIAL, OR PARTICIPATE IN A CLASS ACTION AGAINST SOWELL YOU MAY NOT ACCESS OR USE THE SITES OR SERVICES OR CREATE AN ACCOUNT WITH US. IF YOU DO NOT UNDERSTAND AND AGREE TO ALL OF THESE TERMS, OR ARE UNDER EIGHTEEN (18) YEARS OF AGE, YOU SHOULD CEASE ALL USE OF THE SITES AND LOGOFF IMMEDIATELY.**

**2. GENERAL**

These Terms of Use (“TOU”) are an agreement between you (hereinafter “You,” “Yours,” and/or “Customer”) and SoWell Services, Inc., a Delaware corporation (“SoWell”). These are rules you agree to follow when using our website <https://www.getsowell.com> and/or any interactive mobile application that SoWell may develop from time to time (collectively, the “Site”), including when you view content on the Site. To make these Terms easier to read, the services offered by SoWell, including but not limited services offered on the Sites such as dietary supplement sales services, are collectively called the “Services.”

These TOU also provide rules in connection with use of the Site solely as an IT platform facilitating (i) your purchase of "The Weight Biology Kit," lab test kit manufactured by The Allied Group (the "Test Kit"); (ii) processing of the lab tests from the Test Kit by US Specialty Lab®; and (iii) authorization and information from physicians associated with the SPOTS Health Inc., network of physicians licensed in all fifty states and the District of Columbia (excluding New York, Rhode Island and New Jersey) regarding the test results from the Test Kit (collectively, the "SPOTS Services"). Please also familiarize yourself with our [Privacy Policy](#) before using the Site. By accessing, browsing, and/or using the Site, you accept and agree to be bound by these TOU and the Privacy Policy (collectively, the "Terms and Conditions"). If you do not agree to all of these Terms and Conditions, do not access or use the Site.

You are responsible for providing and maintaining, at your own risk, option, and expense, appropriate software and hardware capabilities (consistent with any technical, quality, or other requirements described on the Site) to enable use of the Site, including, but not limited to, a computer or mobile device with internet access. You are solely responsible for any fees, including internet connection or mobile fees that you incur while using the Site. You also have a duty to provide truthful, accurate, and complete information in any forms or other communications you submit to or through the Site. We reserve the right to change the access configuration, including any software, hardware, or other requirements of the Site at any time without prior notice.

Use of the Site and/or the SPOTS Services is available only to individuals who are at least 18 years old or who have the consent of a parent or other guardian. Therefore, by using the Site and/or the SPOTS Services you represent and warrant that if you are an individual, you are at least 18 years old or have had a parent or other legal guardian review and accept these TOU. These TOU are void wherever use of the Site is prohibited by law.

### **3. YOUR RELATIONSHIP WITH SOWELL**

SoWell is a technology company that makes available to individuals who register as users of the Site ("Users") certain products and services offered by third-party medical providers, laboratories or other vendors. With respect to the SPOTS Services, including, without limitation, the Test Kit, as well as any lab services, SoWell acts solely as a technology platform to connect you with the products and services.

The information provided by SoWell is for purposes of improving your wellness only and is not intended to provide medical advice, diagnosis, or treatment. Any interaction between you and SoWell is not intended to create, nor does it create, any doctor-patient relationship. Use of the Site is for information services only. The Site and the SPOTS Services are designed to help support the health-related choices that you make. These choices are yours and may require the advice of a health care provider. The Site is not intended to be a substitute for professional medical advice, diagnosis, or treatment or recommendation regarding medication. SoWell does not warrant the accuracy, completeness, or usefulness of any information obtained through the Site or in connection with the SPOTS Services. Any reliance you place on such information is strictly at your own risk. SoWell disclaims all liability and responsibility arising from any reliance placed on such information by you or anyone who may otherwise receive such information. Furthermore, you should not interpret any information from the Site as recommending any specific treatment plan, product, or course of action. Always seek the advice of your physician or other qualified health provider with any questions you may have regarding a medical condition.

The Site does not endorse any specific products or procedures that may be mentioned on the Site. The information provided by the Site is meant to be considered by you and your health care provider. Reliance on any information provided by the Site is solely at your own risk.

#### **4. USE OF SPOTS SERVICES**

By accepting these TOUs, you agree that your use of the SPOTS Services, if any, is subject to the following conditions:

- SoWell makes no representations, warranties or covenants concerning the SPOTS Services, which are provided by parties unaffiliated with SoWell.
- SPOTS Services are provided solely for informational purposes, and do not constitute treatment or diagnosis of any condition, disease, or illness or otherwise constitute the practice of medicine;
- SPOTS Services do not replace the existing primary care or other relationship you have with your primary healthcare provider;
- SPOTS Services do not and will not prescribe or order any drugs or medication;
- Any user of the SPOTS Services must be over the age of 18 years old or appropriate age of majority in their state of residence;
- SPOTS Services are for the personal use of the Users of the Site only;
- SPOTS Services are not a substitute for the care, medical advice, or treatment provided by your primary healthcare provider;
- Any user of the SPOTS Services is voluntarily using the SPOTS Services without the undue influence of another party;
- SPOTS Services provides information (if any) based strictly on Users test results of the Test Kits and such information does not constitute a treatment decision or the practice of medicine; and
- You are solely responsible for forwarding test results to your primary care or personal physician and for initiating follow up with your primary healthcare provider for care, diagnosis, medical treatment, or to obtain an interpretation of any laboratory test results.

#### **5. DISCLAIMERS – GENERAL**

Please read the full medical disclaimer before taking any of the products offered on the Site.

The information and content on the Sites, including but not limited to text, graphics, images, videos, and other material contained in the Sites is for informational purposes only and is not intended as a substitute for professional medical advice, help, diagnosis or treatment. Always seek the advice of your physician or other qualified health care provider with any questions you have regarding your medical care, and never disregard professional medical advice or delay seeking it because of something you have read on the Sites.

Nothing contained in the Sites is intended to constitute a medical diagnosis or treatment. Reliance on any information appearing on the Sites, including but not limited to information provided by websites personnel or by other users of the Sites, is solely at your own risk.

SoWell does not warrant the accuracy, completeness, timeliness or usefulness of the opinions, advice, content, services or other information provided through the Sites or on the Internet generally.

SoWell and its associates attempt to be as accurate as possible. However, SoWell does not warrant that product descriptions or other content of this Sites is accurate, complete, reliable, current, or error-free. If a product offered by SoWell itself is not as described, your sole remedy is to return it in unused condition.

In the event that any individual should use the information presented on this Sites without a licensed psychologist, medical doctor, psychiatrist or other appropriate professional healthcare provider's approval, that individual will be diagnosing for him or herself. No responsibility is assumed by the author, publisher or distributors of this information should the information be used in place of a licensed psychologist, medical doctor, psychiatrist or other appropriate professional health care provider's services. No guarantees of any kind are made for the performance or effectiveness of the preparations mentioned on the Sites.

Please speak with an appropriate healthcare professional when evaluating any wellness related therapy.

The statements on the Sites and on product labels, labeling, and packaging have not been evaluated by the Food and Drug Administration. SoWell's products and information, including products and information on the Sites, are not intended to diagnose, treat, cure, or prevent any disease. Use products as per instructions and always watch for any allergic reactions.

Availability, price, and time-sensitive information appearing on the Site is subject to change. SoWell is not responsible for any such changes and advises you to confirm all specific terms appearing on or through the Site before acting in reliance on such terms.

## **6. DISCLAIMER OF WARRANTIES**

THE SERVICES AND CONTENT PROVIDED BY SOWELL THROUGH THE SITE, INCLUDING THE LAB SERVICES AND THE SPOTS SERVICES, ITS LICENSORS, AND SUPPLIERS, ARE PROVIDED ON AN "AS IS" BASIS AND WITHOUT WARRANTIES OF ANY KIND EITHER EXPRESS OR IMPLIED. TO THE FULLEST EXTENT PERMISSIBLE PURSUANT TO APPLICABLE LAW, SOWELL (AND THE LAB SERVICES AND THE SPOTS SERVICES, ITS LICENSORS AND SUPPLIERS) DISCLAIM ALL WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT OF THIRD PARTIES' RIGHTS, AND FITNESS FOR A PARTICULAR PURPOSE. SOWELL DOES NOT WARRANT THAT THE FUNCTIONS CONTAINED ON AND AVAILABLE THROUGH THE SITE WILL BE UNINTERRUPTED OR ERROR FREE, OR THAT ANY DEFECTS WILL BE CORRECTED. SOWELL DOES NOT WARRANT OR MAKE ANY REPRESENTATIONS REGARDING THE USE OR THE RESULTS OF THE USE OF THE SERVICES OR CONTENT IN TERMS OF THEIR CORRECTNESS, ACCURACY, RELIABILITY, OR OTHERWISE. APPLICABLE LAW MAY NOT ALLOW THE EXCLUSION OF IMPLIED WARRANTIES, SO THE ABOVE EXCLUSION MAY NOT APPLY TO YOU.

SOWELL DOES NOT MAKE ANY REPRESENTATIONS OR WARRANTIES AS TO THE SECURITY OF ANY INFORMATION (INCLUDING, WITHOUT LIMITATION, CREDIT CARD AND OTHER PERSONAL INFORMATION) YOU MIGHT BE REQUESTED TO GIVE ANY THIRD-PARTY, AND YOU HEREBY IRREVOCABLY WAIVE ANY CLAIM AGAINST SOWELL WITH RESPECT TO SUCH SITES AND THIRD-PARTY CONTENT.

## **7. CHANGES TO TERMS AND CONDITIONS OR SERVICES**

SoWell reserves the right to make changes to this TOU, the Sites, policies, and to this Agreement at any time and without notice. If we make any changes, we will revise the “last modified” date at the bottom of this document. YOU SHOULD PRINT A COPY OF THIS AGREEMENT AND CHECK BACK FREQUENTLY FOR UPDATES. Your continued use of our Sites or of any purchased product or service following any future amendment constitutes your acceptance of any modified terms. If you have any questions regarding these terms, please contact customer care at [support@getsowell.com](mailto:support@getsowell.com)

## **8. PRIVACY POLICY**

SoWell understands the importance of confidentiality and privacy regarding your health information. Please see our Privacy Policy (<https://www.getsovell.com/privacy-policy/>) as well as Section 9 of these Terms of Use for descriptions of how we may collect and use your personal information, The Privacy Policy is hereby incorporated into these Terms of Use by reference and constitute a part of these Terms of Use.

## **9. PERSONAL INFORMATION**

SoWell may collect information you provide when using the Site, including, but not limited to:

- Personal identifying information and contact information;
- Account registration information;
- Demographic and geolocation data;
- Computer, mobile device, and/or browser information (*e.g.*, IP address, operating system, connection speed, browser type, cookies, and hardware and software attributes);
- Usage activity concerning your interactions with the Site and/or third-party websites, networks, or applications accessed through the Site (*e.g.*, viewing habits, viewing preferences, viewing history, number of clicks on a page, etc.);
- Billing, payment, and shipping information.

If Users use their mobile devices to visit, access, or use the Site, then additional categories of information that we may collect include:

- The name associated with the User’s mobile device;
- The telephone number associated with the User’s mobile device;
- The User’s geolocation;
- With the User’s express written consent, information about third-party software applications on the User’s mobile device (including, without limitation, general

software applications, downloadable software applications, and social media applications).

SoWell may also collect certain medical information, which may include, but is not limited to:

- Health and medical data that the User may submit, including information in any questionnaires or surveys the User completes;
- Healthcare providers previously visited by the User and the dates of such visits;
- Images or other data shared by the User.

### **How Information is Collected:**

SoWell may collect information directly from Users (1) when they visit, access, or use the Site; (2) when they register with or subscribe to use the Site or any product or services available through the Site, including the SPOTS Services; (3) when they sign into the Site; (4) when they interact with the Site on any social media platforms; (5) when they allow the Site to access, upload, download, import, or export content found on or through, or to otherwise interact with, their computer or mobile device (or any other device they may use to visit, access, or use the Site) or online accounts with third-party websites, platforms, servers, or applications; or (6) when SoWell asks them for such information. In addition, if Users or third parties send SoWell a comment, message, or other communication about Users or their activities on or through the Site, then SoWell may collect any personal or non-personal information provided therein.

Finally, SoWell may use various tracking, data aggregation, and/or data analysis technologies, including, for example, the following: cookies, flash cookies, web beacons, scripts, and analytic tools and services.

Please be advised that if the User chooses to block, reject, disable, delete, or change the management settings for any or all of the aforementioned technologies and/or other tracking, data aggregation, and data analysis technologies, then certain areas of the Site might not function properly.

By visiting, accessing, or using the Site, the User acknowledges and agrees in each instance that the User is giving SoWell permission to monitor or otherwise track activities on the Site, and that SoWell may use the aforementioned technologies and/or tracking, data, aggregation, and data analysis technologies. Notwithstanding the foregoing, SoWell does not permit third parties or third-party cookies to access any communications Users have with their healthcare providers or medical information that Users submit to their healthcare providers for diagnosis and treatment purposes.

### **Use of Information**

In connection with the services provided by the Site, SoWell and its affiliates may use your information for a number of purposes, including, but not limited to:

- Verifying your identity;
- Confirming your location;
- Administering your account;

- Fulfilling your requests;
- Processing your payments;
- Facilitating use of the Site and or products or services offered through the Site;
- Communicating with you through email or other forms of communication, including providing you with information regarding SoWell's products and services and/or promotions regarding such products and services;
- Providing you with customer support;
- Improving the Site;
- Analyzing traffic to and use of the Site;
- Protecting or enforcing SoWell's rights and properties and the rights and properties of others;
- When required by applicable law, court order, or other governmental authority; and
- In any other way SoWell believes in good faith is necessary or advisable (including, without limitation and by way of example only, to investigate, prevent, or take legal action against someone who may be causing injury to, interfering with, or threatening the rights, obligations, or properties of SoWell, a User of the Site, or anyone else who may be harmed by such activities, or to further SoWell's legitimate business interests).

SoWell may de-identify information of Users of the Site and use, create, and sell such de-identified information for any business or other purposes not prohibited by applicable law.

### **Disclosure of Information**

Subject to the limitations describe in SoWell's Privacy Policy, SoWell may disclose its Users' information to third parties in connection with the provision of its products and services or as otherwise permitted or required by law. SoWell may de-identify its Users' information and disclose such de-identified information for any purpose not prohibited by applicable law.

### **Data Retention**

SoWell may retain its Users information for (1) as long as it believes necessary; (2) as long as necessary to comply with its legal obligations, resolve disputes, and/or enforce agreements; or (3) as long as needed to provide it Users with products and services. SoWell may dispose of or delete any such information at any time, except as set forth in any other agreement or document executed by SoWell or as required by law.

## **10. SITES CONTENT AND CONTENT RIGHTS**

For purposes of these Terms: (i) "Content" means text, graphics, images, music, software, audio, video, works of authorship of any kind, and information or other materials that are posted, generated, provided or otherwise made available through the Services or Sites; and (ii) "User Content" means any Content that Sites users (including you) provide to be made available through the Services or Sites. Content includes without limitation User Content. Any information submitted on the Sites is subject to the terms of which are incorporated herein.

SoWell neither endorses nor is responsible for the accuracy or reliability of any opinion or statement on the Sites, nor for any offensive, defamatory or obscene posting made by any user. Under no circumstances will SoWell be liable for any loss or damage caused by your reliance on

information obtained through the content on the Sites. It is your responsibility to evaluate the accuracy, completeness and usefulness of any information, opinion or other content available through the Sites. Please seek the advice of professionals, as appropriate, regarding the evaluation of any specific information, opinion or other content, including but not limited to financial, health, or lifestyle information, opinion or other content.

You are responsible for all User Content that you post, upload, store, transmit, or otherwise provide through the Site. SoWell reserves the right to remove or edit your User Content or any other content that we believe may be offensive. You automatically grant SoWell a perpetual, worldwide, royalty-free, irrevocable, and nonexclusive right and license to use, reproduce, modify, display, adapt, and publish your User Content to enable SoWell to operate the Site.

## **11. USE OF SITE AND ACCOUNT SECURITY**

You shall not modify, publish, transmit, participate in the transfer or sale of, reproduce, create derivative works based on, or otherwise exploit any content produced on the Site without the express prior written permission of SoWell other than the limited reproduction of information on the site for your personal, non-commercial use. The modification or use of the Site's content for any other purpose is a violation of SoWell's copyright and other proprietary rights and may subject you to civil or criminal penalties. If you violate any of these TOU, your permission to access and use the Site's content automatically terminates and you must destroy any copies you may have made of the Site's content. The site is for personal use and may not be used in connection with any commercial activities except those authorized by SoWell.

Certain parts of the Site are available only to Users who set up an account on the Site. When you create an account, you may be asked to provide certain personal information. You agree that all such information provided to SoWell is governed by these TOU.

If you choose, or are provided with, a username, password, or any other piece of information as part of the Site's security procedures, you must treat such information as confidential, and you must not disclose it to any other party or entity. You acknowledge that your account on the Site is personal to you and you agree not to provide any other person with access to the services provided through the Site using your username, password, or other security information. You agree to notify us immediately of any unauthorized access to or use of your username or password. SoWell has the right to disable any account at any time in our sole discretion, including if SoWell believes that you have violated these TOU.

SoWell may rely on the authority of anyone accessing your account or using your login credentials and in no event and under no circumstances shall SoWell be held liable to you for any liability or damages arising out of (a) any compromise of the confidentiality of your account or password or (b) any authorized access to your account or use of your password.

SoWell may store, transmit, receive, and/or access your data arising from your use of the Site.

## **12. INTELLECTUAL PROPERTY RIGHTS**

Content displayed on the Site may be owned by SoWell or provided through arrangement with other parties, including other Users of the Site or third-party providers. Unauthorized use of content on the Site may violate copyright, trademark, or other intellectual property laws. You have



no right in or to content on the Site, and you may not use such content except as permitted under these TOU.

### **13. PROHIBITED USES**

You may use the Site only for lawful purposes and in accordance with these TOU. Additionally, you agree not to use the Site:

- In any way that violates any applicable federal, state, local, or international law or regulation;
- In any way that infringes or violates any intellectual property rights or any other rights of any other party;
- For the purposes of exploiting, harming, or attempting to exploit or harm minors in any manner;
- To transmit, or procure the sending of, any advertising or promotional material without SoWell's prior written consent;
- To impersonate or attempt to impersonate SoWell, its employees, any other User of the Site, or any other person or entity;
- To engage in conduct that is harmful, fraudulent, deceptive, threatening, harassing, defamatory, obscene, or otherwise objectionable, or that restricts or inhibits anyone's use or enjoyment of the Site, or which may otherwise expose SoWell or any other individual to liability;
- In any manner that could disable, overburden, damage, or impair the Site or interfere with any other Users' use of the Site;
- In an attempt to gain unauthorized access to, interfere with, damage, or disrupt any parts of the Site or any computer, server, or database connected with Site;
- To reverse engineer or otherwise attempt to obtain the source code or underlying ideas or information related to the Site; or
- To otherwise attempt to interfere with the proper working of the Site.

### **14. THIRD-PARTY PRODUCTS AND SERVICES**

SoWell is not responsible for examining or evaluating any products, advice, or services offered by any third parties whose icons, products, advice, services, or links appear on or through the Site, including, without limitation, the SPOTS Services. This includes links contained in advertisements, including banner advertisements and sponsored links. SoWell has no control over the contents of those websites or resources, and accepts no responsibility for them or for any loss or damage that may arise from your use of such websites or resources. If you decide to access any of the third-party websites linked to the Site, you do so entirely at your own risk and subject to the terms and conditions of use for such websites. SoWell makes no representations, warranties, or conditions regarding the offerings of any third-party. You accept that the purchase, payment, warranty, guarantee, delivery, maintenance, and all other matters concerning the merchandise, services, or information ordered or received from a third-party is solely between you and the third-party. You further accept that SoWell will not be a party to or be in any way responsible for monitoring any transaction between you and a third-party.

## **15. OWNERSHIP OF INFORMATION SUBMITTED VIA THE SITES**

With the exception of any personal data or information you submit maintained in accordance with our Privacy Policy or as otherwise prohibited by federal or state specific privacy laws and regulations, you understand and agree that any information you provide to SoWell on or through the Sites or Services, whether by direct entry, submission, email or otherwise, including, but not limited to, data, questions, comments, forum communications, or suggestions, will be treated as non-confidential and non-proprietary and will become the property of SoWell.

Such information may be used for any purpose, including, without limitation, reproduction, solicitation, disclosure, transmission, publication, broadcast, and posting. SoWell shall be free to use any ideas, concepts, know-how, or techniques contained in any communication you send to SoWell via the Services or by any other means for any purpose whatsoever, including, without limitation, developing and marketing products using such information.

For any personal data or information subject to the foregoing exception, and to the extent permitted by law, you: (1) understand and agree that any such information provided by you may be used, copied or displayed by SoWell, SoWell may create derivative works of any such data, and SoWell may provide such data to our affiliates, service providers, and successors and assigns; and (2) grant SoWell, service providers, and successors and assigns, the fully transferable and sublicensable right and license to use, reproduce, modify, analyze, perform, display, distribute, and otherwise disclose to third parties any data or information you submit on or through the Sites for the purposes of providing services to you; conducting research or analyses of such data; and designing, developing, implementing, modifying and/or improving new, current or future features, products and services of SoWell using such data.

## **16. LIMITED RIGHT TO USE**

The viewing, printing or downloading of any Content, graphic, form, or document from the Sites grants you only a limited, non-exclusive license for use solely by you for your own personal, non-commercial use. You may not modify, copy, distribute, transmit, display, perform, reproduce, publish, license, create derivative works from, transfer, or offer for sale any information contained on, or obtained from, the Sites. Illegal and/or unauthorized uses of the Sites, including collecting usernames and/or email addresses of members by electronic or other means for the purpose of sending unsolicited commercial email; using any information retrieval system, whether electronic or through other means, to reproduce any of the Content of the Sites other than for your personal use; and unauthorized framing or linking to the Sites will be investigated and appropriate legal action will be taken, including civil, criminal, and injunctive redress.

## **17. PAYMENT**

You agree to pay all fees due for items and/or services requested. You will see a prompt for your payment details, such as your credit card information and any promotional codes you may have. By entering your payment information and submitting your request, you authorize us, our affiliates, or our third-party payment processors to charge the amount due.

## **18. SUBSCRIPTION PRODUCTS AND SERVICES**

Certain products and services available for purchase through the Service require that you purchase the product and/or service on an automatically renewing subscription basis. For subscription-based products and services, your payment device will be automatically charged at regular intervals as described for that product or service during the checkout process. You may cancel a subscription at any time up to forty-eight (48) hours before the applicable renewal processing date of your subscription through the Service or by emailing support@getsowell.com directly.

## **19. LINKS**

The Sites may provide links to other World Wide Web Sites or resources not directly affiliated with SoWell. We have not reviewed these sites and is not responsible for the accuracy, content, privacy policies or availability of information found on sites that link to or from any SoWell Sites. We cannot ensure that you will be satisfied with any products or services that you purchase from a third-party sites that links to or from any SoWell Sites or third-party content on our Sites. We do not endorse any of the merchandise, nor have we taken any steps to confirm the accuracy or reliability of any of the information contained in such third-party sites or content. We do not make any representations or warranties as to the security of any information (including, without limitation, credit card and other personal information) you might be requested to give any third-party, and you hereby irrevocably waive any claim against SoWell with respect to such sites and third-party content. We strongly encourage you to make whatever investigation you feel necessary or appropriate before proceeding with any online or offline transaction with any of these third parties. Neither SoWell nor its affiliates, employees, directors, officers, or agents shall be liable for any damages, including but not limited to direct, indirect, incidental, consequential, or punitive damages arising out of your use of third-party material or third-party sites that are linked to the Sites. No link to the Sites may be framed to the extent that such frame contains any sponsorship, advertising, or other commercial text or graphics. Deep linking to internal pages of the Sites is expressly prohibited without prior written consent from SoWell.

## **20. TERMINATION**

SoWell reserves the right to terminate your access to the Sites or any of its services at any time and for any reason, without notice to you. Upon termination, you must cease use of the Services and Sites and destroy all materials obtained from such Sites and all copies thereof, whether made under these Terms or otherwise. Except as otherwise provided, or as required by applicable law, we have no obligation, whether before or after the termination of your use of the Site, to return or otherwise provide to you any information to use, or any other information that we have that relates to you.

## **21. LIMITATIONS OF LIABILITY**

UNDER NO CIRCUMSTANCES, INCLUDING, BUT NOT LIMITED TO, NEGLIGENCE, SHALL SOWELL BE LIABLE FOR ANY DAMAGES (INCLUDING, WITHOUT LIMITATION, SPECIAL OR CONSEQUENTIAL DAMAGES) THAT RESULT FROM THE USE OF, OR THE INABILITY TO USE, THE CONTENT OR SERVICES PROVIDED BY THE SITE, EVEN IF SOWELL OR ONE OF ITS AUTHORIZED REPRESENTATIVES HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. 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.

YOU HEREBY RELEASE AND FOREVER WAIVE AND DISCHARGE ANY AND ALL CLAIMS AND LIABILITIES YOU MAY HAVE AGAINST SOWELL FROM ANY AND ALL MATTERS RELATING TO YOUR USE OF THE SITE, INCLUDING BUT NOT LIMITED TO YOUR USE OF MATERIALS OR FEATURES AVAILABLE ON THE SITES, OR ANY CONTENT ON THE SITES.

IF YOU DO NOT AGREE TO THESE TERMS AND CONDITIONS OR IF YOU SEEK TO ASSERT ANY CLAIM AGAINST SOWELL ARISING OUT OF OR RELATING TO THE TERMS AND CONDITIONS OF YOUR USE OF THE SITE, YOUR SOLE AND EXCLUSIVE REMEDY IS TO DISCONTINUE USING THE SITE.

If you are a California resident, you waive California Civil Code Section 1542, which says: "A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor or released party." If you are a resident of another jurisdiction, you waive any comparable statute or doctrine.

## **22. INDEMNITY**

You agree to indemnify, defend, and hold harmless SoWell, subsidiaries, and their directors, officers, employees, contractors, licensors, suppliers, representatives, proprietors, partners, shareholders, servants, principals, agents, predecessors, successors, assigns, accountants, and attorneys (collectively, "Indemnitees") harmless from and against any and all third-party suits, actions of any kind, claims, proceedings, damages, settlements, judgments, injuries (including death), liabilities, rights, obligations, losses, risks, costs, and expenses (including, without limitation, reasonable attorneys' fees, litigation expenses, and accounting fees), relating to or arising from, or alleged to arise from: (1) your use of the Services or the Sites (including your use of materials or features available on the Sites); (2) any Content; (3) your connection to the Services; (4) your breach or violation of these Terms of Use; (5) your violation of any rights of another; and (6) your infringement of any intellectual property or privacy right of any person.

IF YOU ARE A USER FROM NEW JERSEY, THE SECTIONS "LIMITATION OF LIABILITY" AND "INDEMNITY" ARE INTENDED TO BE ONLY AS BROAD AS IS PERMITTED UNDER THE LAWS OF THE STATE OF NEW JERSEY. IF ANY PORTION OF THESE SECTIONS IS HELD TO BE INVALID UNDER THE LAWS OF THE STATE OF NEW JERSEY, THE INVALIDITY OF SUCH PORTION SHALL NOT AFFECT THE VALIDITY OF THE REMAINING PORTIONS OF THE APPLICABLE SECTIONS.

## **23. ELECTRONIC SIGNATURE CONSENT AND AGREEMENT**

You consent and agree that your use of a keypad, mouse or other device to select an item, button, icon, checkbox, to enter text, or to perform a similar act/action, while using our Sites, for the purpose of accessing or making any transactions regarding any agreement, acknowledgment, consent, terms, disclosures or conditions, constitutes your signature, including without limitation

of the United States Electronic Signatures in Global and National Commerce Act, P.L. 106-229 (the “E-Sign Act”) acceptance and agreement as if actually signed by you in writing. Be advised that all activity and IP address information may be monitored. The right to use any product or service you purchase from us is personal to you and is not transferable to any other person or entity.

## **24. GOVERNING LAW**

All matters arising out of or relating to these Terms of Use, including any issue or dispute arising out of or in connection with your use of our Sites, intellectual property, the Terms of Use, the Services, or any matter concerning SoWell, will be governed by the laws of the State of New York, without regard to conflict-of-law principles.

## **25. DISPUTE RESOLUTION**

### **a. Informal Resolution Required Before Commencing Arbitration**

It is our hope that most customer concerns are resolved quickly and to the customer’s satisfaction by emailing customer support at support@getsowell.com. If you believe that you have a dispute or claim against SoWell arising out of your use of the Site or under these TOU, you agree to first discuss the matter informally with us for at least 30 days. To do that, you must give us **written notice**, which should be sent to SoWell at [ADDRESS] (“**Notice Address**”). The Notice must (i) include your name, residence address, username (if applicable) and email address associated with your User account (if applicable), (ii) describe the nature and basis of the claim or dispute, and (iii) set forth the specific relief sought.

If we are unable to resolve your concerns informally within 30 days after SoWell receives your notice, your sole and exclusive remedy is to commence an arbitration proceeding against SoWell in accordance with the procedures set forth below. As set forth more fully below, **YOU ARE AGREEING TO WAIVE YOUR RIGHT TO SUE IN COURT, HAVE A JURY TRIAL, AND LEAD OR PARTICIPATE IN A CLASS ACTION.**

### **b. Binding Arbitration; Waiver of Right to Participate in Class Action or Other Representative Action**

You agree that any and all disputes or claims that have arisen or may arise between you and SoWell that cannot be resolved via informal efforts **shall be resolved exclusively through final and binding arbitration, rather than a court of law**, in accordance with the terms set forth herein.

**YOU EXPRESSLY AGREE THAT YOU AND THE COMPANY ARE EACH WAIVING THE RIGHT TO A TRIAL BY JURY OR TO PARTICIPATE IN A CLASS ACTION OR OTHER REPRESENTATIVE ACTION WITH RESPECT TO ANY CLAIMS OR DISPUTES WITH OR INVOLVING THE COMPANY.**

**YOU EXPRESSLY AGREE THAT YOU MAY BRING CLAIMS AGAINST THE COMPANY ONLY VIA ARBITRATION AND ONLY ON AN INDIVIDUAL BASIS AND NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED CLASS OR REPRESENTATIVE ACTION OR PROCEEDING.**

**YOU EXPRESSLY AGREE THAT THE ARBITRATOR(S) MAY NOT CONSOLIDATE OR JOIN MORE THAN ONE PERSON'S OR PARTY'S CLAIMS AND MAY NOT OTHERWISE PRESIDE OVER ANY FORM OF A CONSOLIDATED, REPRESENTATIVE, OR CLASS PROCEEDING. THE ARBITRATOR MAY AWARD RELIEF (INCLUDING MONETARY, INJUNCTIVE, AND DECLARATORY RELIEF) ONLY IN FAVOR OF THE INDIVIDUAL PARTY SEEKING RELIEF AND ONLY TO THE EXTENT NECESSARY TO PROVIDE RELIEF NECESSITATED BY THAT PARTY'S INDIVIDUAL CLAIM(S), EXCEPT THAT YOU MAY PURSUE A CLAIM FOR AND THE ARBITRATOR MAY AWARD PUBLIC INJUNCTIVE RELIEF UNDER APPLICABLE LAW TO THE EXTENT REQUIRED FOR THE ENFORCEABILITY OF THIS PROVISION.**

**YOU EXPRESSLY AGREE THAT THE AWARD OF THE ARBITRATOR(S) WILL BE FINAL AND BINDING.**

**YOU EXPRESSLY AGREE THAT SOWELL MAY SEEK INTERIM OR PRELIMINARY RELIEF FROM A COURT OF COMPETENT JURISDICTION IN NEW YORK AS NECESSARY TO PROTECT ITS RIGHTS OR PROPERTY PENDING THE COMPLETION OF ARBITRATION.**

**YOU ACKNOWLEDGE THAT YOU ARE VOLUNTARILY AND KNOWINGLY WAIVING AND FORFEITING (1) YOUR RIGHT TO A TRIAL BY JURY; (2) YOUR RIGHT (IF ANY) TO PURSUE CLAIMS VIA CLASS OR REPRESENTATIVE ACTION; AND (3) TO OTHERWISE PROCEED IN A LAWSUIT IN STATE OR FEDERAL COURT, EXCEPT AS EXPRESSLY PROVIDED HEREIN.**

**c. Arbitration Procedures**

Any arbitration will be conducted under the Streamlined Arbitration Rules and Procedures of Judicial Arbitration and Mediation Services, Inc. ("JAMS"), then in effect. You must file a demand for arbitration with JAMS within one (1) year after the date your claim arose, or within the shortest time period permitted by applicable law. Otherwise, your claim is waived.

All aspects of the arbitration proceeding, and any ruling, decision, or award by the arbitrator, will be strictly confidential for the benefit of all parties.

**d. Severability**

If a court or arbitrator decides that any term or provision of this section is invalid or unenforceable, the parties agree to replace such term or provision with a term or provision that is valid and enforceable and that comes closest to expressing the intention of the invalid or unenforceable term or provision, and such terms shall be enforceable as so modified.

**26. ENTIRE AGREEMENT**

This TOU is the entire agreement between you and SoWell relating to the subject matter herein. You and SoWell agree there are no third-party beneficiaries intended under these TOU.

## **27. MISCELLANEOUS**

If any provision of these TOU shall be deemed unlawful, void, or for any reason unenforceable, then such provision shall be deemed severable from these TOU and shall not affect the validity and enforceability of any remaining provisions. The failure of either you or SoWell to exercise, in any way, any right herein shall be deemed a waiver of any further rights hereunder. This TOU is the entire agreement between you and SoWell relating to the subject matter herein. You and SoWell agree there are no third party beneficiaries intended under these TOU.

Last modified: July 17, 2023