

# FoodSwitch™

## GENERAL TERMS AND CONDITIONS OF USE

### 1 Who we are and how to contact us?

FoodSwitch is an application which provides nutritional information based on a scientific algorithm developed by The George Institute for Global Health (**The George Institute**), an Australian medical research institute. FoodSwitch is licensed to sponsors in different agreed territories.

To contact The George Institute, email [foodswitch@georgeinstitute.org.au](mailto:foodswitch@georgeinstitute.org.au).

### 2 By using FoodSwitch you accept these Terms

By using FoodSwitch, you confirm that you accept these Terms and that you agree to comply with them. If you do not agree to these Terms, you must not use FoodSwitch.

### 3 We may change these Terms

We amend these Terms occasionally. Every time you wish to use FoodSwitch, please check these Terms to ensure you understand the terms that apply at that time.

### 4 Definitions

In these Terms the following words have the meanings indicated:

**We, Us and Our** refer to The George Institute, an Australian medical research institute and any sponsor, including its related entities as the context requires;

**Access** refers to your download, installation, viewing, displaying or use of FoodSwitch; and

**FoodSwitch** refers to the FoodSwitch mobile applications, (or any other version of the FoodSwitch application we release) and any supporting FoodSwitch applications, including The George Institute App, The George Institute Website and the FoodSwitch Website.

### 5 Food product information and associated alternatives on FoodSwitch

- 5.1 When you Access FoodSwitch you may view food product information and alternatives. You agree that the information you view on FoodSwitch:
- a) is provided as is; We make no representations or warranties, express or implied regarding the operation or availability of FoodSwitch.
  - b) is general information only and does not take into account your individual circumstances;
  - c) has been developed and reviewed by health professionals and to the best of our knowledge is current at the time of publishing and based on reputable sources of evidence; some data required by the algorithm have been estimated to enable ranking of products;
  - d) has been compiled based on the ingredients list, nutrition panel information or other relevant information on the product's packaging at the time of data collection, and as the information is provided by third parties, we may be unable to verify this information. We have taken care to ensure the information's accuracy but do not warrant that it is true or accurate and we exclude all liability in respect of the accuracy, completeness, fitness for purpose or legality of that information;
  - e) has been provided on the basis that all FoodSwitch users are responsible for assessing the accuracy and relevance of FoodSwitch information for their personal circumstances and that they

- rely on it entirely at their own risk. You are free to ignore the associated alternatives. It is your responsibility to check that the alternative offerings are acceptable to you; and
- f) should be used as a guide only and should not be relied upon as a substitute for professional, medical, nutrition or other health professional advice. We recommend that you consult your doctor or other qualified health professional if you have questions or concerns about your or your family's health.
- 5.2 All users, especially those with special dietary requirements or food sensitivities or allergies, should ensure that they are clear on the ingredients of the product prior to consumption. We recommend that, if further dietary information is important to you, for example because you have an allergy or specific dietary requirement, you should check with the product manufacturer directly as product labels are not always accurate.
- 5.3 Manufacturing recipes change from time to time. The information may be updated, altered or removed at any time, without notice.
- 5.4 Although we make reasonable efforts to update the information on FoodSwitch, we make no representations, warranties or guarantees, whether express or implied, that the content on FoodSwitch is accurate, complete or up to date.
- 5.5 In some cases, Health Star Ratings and Traffic Light Labels are estimated using our internal methods. If you think any of this information is incorrect, please contact us to request further review.
- 5.6 Any information about The George Institute that appears on FoodSwitch is provided for your interest. Further information about The George Institute is available at [www.georgeinstitute.org](http://www.georgeinstitute.org).

## **6 Disclaimers, Liability and Indemnity**

- 6.1 Nothing in these Terms affects any liability which cannot be excluded or limited under applicable law. This includes liability for death or personal injury caused by our negligence or the negligence of our employees, agents or subcontractors and for fraud or fraudulent misrepresentation. Where our liability cannot be excluded, we limit our liability to the fullest extent permitted by the Australian Consumer Law.
- 6.2 You Access FoodSwitch at your own risk and you are responsible for the consequences of your use of FoodSwitch, including if you upload and share content.
- 6.3 Except as required under applicable law, none of The George Institute, our affiliates, licensees, service providers, employees, agents, officers, directors, third party content providers (each, a **TGI party**), make any express or implied representation or warranty about FoodSwitch, the information it provides and your use of that information.
- 6.4 No TGI party will be liable, in contract, tort (including negligence) or otherwise, for any direct, indirect, special or consequential loss, damages, expense, or reliance in connection with FoodSwitch, its use, its content or any products or services referred to within FoodSwitch. This includes (but is not restricted to) any loss, damage or expense you might suffer or incur as a result of any of the following:
- a) your reliance on the completeness, accuracy, suitability or currency of any content on FoodSwitch;
  - b) failure of, or delay in, the performance, operation or transmission via FoodSwitch or data on or through FoodSwitch, a computer virus or other harmful component, a loss of data, a communication line failure, unlawful third-party conduct, or theft, destruction, alteration or unauthorised access to records;
  - c) any data usage, roaming or other charges you incur when accessing the internet through your mobile device;
  - d) accessing any third-party web sites, servers or applications (including, without limitation, Twitter and Facebook) through FoodSwitch. We are not responsible for the content or

operation of third-party web sites, applications or services. Unless We say so, We do not endorse any third-party web sites, applications or services accessible through FoodSwitch. Your use of any third-party web sites, applications or services is at your own risk; or

- e) defamatory, threatening, offensive or unlawful conduct of third parties.
- 6.5 FoodSwitch is provided **as is**, with all faults, and with no representations or warranties of any kind, either expressed or implied. These Terms apply in place of all warranties, conditions, Terms, representations, statements, undertakings and obligations whether expressed or implied by statute, common law, custom, usage or otherwise, all of which are excluded to the fullest extent permitted by law. No oral or written information or advice given by The George Institute, its agents, or authorised representatives will create a warranty or in any way increase the scope of this warranty.
- 6.6 We are not liable to any other party for any loss or damage, including direct, consequential, incidental or indirect loss or damage, including loss of profit (whether direct, consequential, incidental or indirect) resulting from a breach of these Terms by Us or Our negligence, or Our representatives' negligence.
- 6.7 You indemnify Us, Our affiliates and respective employees, agents, third party content providers and licensors (each an **Indemnified Party**) from and against all actions, suits, claims, demands, liabilities, costs, expenses, loss and damage (including legal fees on a full indemnity basis) incurred or suffered by any Indemnified Party (**Loss**) as a direct or indirect consequence of your Access to FoodSwitch. This includes, without limitation, any Loss incurred by virtue of any breaches of third parties' intellectual property rights as a direct or indirect consequence of your Access to FoodSwitch.
- 6.8 We reserve the right, at your expense to assume the exclusive defence and control of any matter for which you are required to indemnify Us and you agree to cooperate with Our defence of these claims. You agree not to settle any matter without Our prior written consent.
- 6.9 None of these Terms restrict any of your statutory rights. For further information about your statutory rights, contact your local authority.

## 7 Licence

- 7.1 We grant you a revocable, non-exclusive, non-transferable licence to install and use FoodSwitch on mobile electronic devices which you own and to access FoodSwitch strictly in accordance with these Terms. This licence is solely for your personal, non-commercial use. We reserve all rights not expressly granted to you.
- 7.2 You must not:
  - a) decompile, reverse engineer, disassemble, attempt to derive the source code of, or decrypt FoodSwitch;
  - b) make any modification, adaptation, improvement, enhancement, translation, or derivative work from FoodSwitch;
  - c) violate any applicable laws, rules, or regulations in connection with your access or use of FoodSwitch;
  - d) remove, alter, or obscure any proprietary notice (including any notice of copyright or trade mark);
  - e) use FoodSwitch for creating a product, service, or software that is, directly or indirectly, competitive with or in any way a substitute for FoodSwitch; or
  - f) use any proprietary information or any of our interfaces or our other intellectual property in the design, development, manufacture, licensing, or distribution of any applications, accessories, or devices for use with FoodSwitch.

## 8 Customer Support

We have no obligation to provide you with customer support of any kind but We may provide customer support, at Our sole discretion.

## 9 Intellectual Property

- 9.1 We are the owner or the licensee of intellectual property rights in all information, text, material, graphics, advertisements, software code and data comprising FoodSwitch. Those works are protected by copyright laws and treaties around the world. All such rights are reserved (**TGI Property**).
- 9.2 You must not modify, copy, reproduce, republish, frame, upload to a third party, post, transmit or distribute the TGI Property in any way except as expressly provided for within FoodSwitch, or expressly authorised in writing by The George Institute.
- 9.3 You are not authorised, without The George Institute's prior written permission, to copy, reproduce, republish, store (in any medium), transmit, broadcast, distribute, show or play in public, adapt or change in any way, the content of, or create a derivative work from FoodSwitch for any other purpose. This prohibition does not extend to content which is expressed to be freely available for re-use or replication, subject to any conditions The George Institute specifies.
- 9.4 You may not use any registered or unregistered trade mark of The George Institute without our prior, specific, written permission.
- 9.5 Our status as the authors of any content on FoodSwitch must always be acknowledged.
- 9.6 You must not delete or alter any copyright, trade mark or other proprietary rights notices from copies of materials from any TGI Property.
- 9.7 You must not use any TGI Property for commercial purposes without obtaining a licence to do so from us.
- 9.8 The use by The George Institute of a third-party trade mark on FoodSwitch is not intended to indicate any association with, or endorsement by The George Institute of that trade mark.
- 9.9 If we provide social media features such as the ability to share content, you may take such actions as are enabled by such features.
- 9.10 Any unauthorised use, alteration or dissemination of the information or content on FoodSwitch is strictly prohibited.
- 9.11 You will indemnify Us against any loss, liability, cost or expense (including legal costs and expenses on a full indemnity basis) suffered or incurred in connection with any claim, action, demand or proceeding alleging that the publication, use or display of any content uploaded by you to FoodSwitch as contemplated by these Terms, infringes the intellectual property rights of any other person.
- 9.12 Apart from any fair dealing for the purpose of private study, research, criticism or review, as permitted under the Copyright Act 1968 (Cth), no part of FoodSwitch may be reproduced without the written permission of The George Institute in each instance.

## 10 Privacy

- 10.1. **Collection:** If you choose to register on the FoodSwitch App, we will collect certain personal information from you to allow you to login. We will collect your name, email address, and social media user id and will use that information as described in our Privacy Policy which is available under the Privacy section of the App. If you do not register on the FoodSwitch App, we will not collect any identifiable data about you.

**10.2. Sharing information:** You may choose to share product information via Facebook and Twitter. You should refer to the terms of use, privacy and security settings of those third-party applications to determine how your information is shared and handled within those applications.

**10.3. Images:** Where a device uses a camera to support FoodSwitch data collection, the mobile device camera can be used to take images of product information. These images will be stored by The George Institute to verify product data entered.

## **11 Applicable law and enforceability**

11.1 You agree that the laws of Australia govern these Terms. You irrevocably and unconditionally submit to the jurisdiction of the Australian courts in respect of any dispute which may arise in connection with these Terms.

11.2 The George Institute does not warrant that the versions of FoodSwitch that operate around the world comply with the laws of any country outside of your territory. If you Access FoodSwitch from outside of your territory, you do so at your own risk, and you accept responsibility for ensuring that you comply with all laws that apply to you as a result of that Access.

11.3 Nothing in these Terms excludes, restricts or modifies any condition, warranty, right or remedy which cannot by law be excluded, restricted or modified. If any of these Terms are found by a court to be invalid or unenforceable, the invalidity or unenforceability will not affect the remaining Terms.

11.4 No failure or delay by The George Institute to exercise any of Our rights will be regarded as a waiver of Our rights, nor will it affect the validity of any part of these Terms.

## **12 System requirements**

12.1 If your smartphone or tablet camera is not capable of auto-focus, FoodSwitch may not be compatible with the device. Without auto-focus, the pictures of the barcode will be blurry and FoodSwitch will be unable to identify the barcode; and

12.2 You will need mobile/cellular data or a Wi-Fi internet connection to download and Access FoodSwitch. Check with your mobile/internet service provider for details of data download and internet usage charges.

12.3 Although FoodSwitch is developed according to reasonable professional standards, in line with industry practice We cannot warrant that it:

- a) can operate stably with any operation system or device; or
- b) is free of defects, viruses, or malicious codes.

12.4 However, if We notice any malfunction or defect, virus or malicious codes in FoodSwitch, We will use reasonable efforts to rectify them.

## **13 What happens if you do not accept these Terms?**

You must accept these Terms to use FoodSwitch.