

## ARANZ Medical Limited – Silhouette® Product Suite Terms of Use

Effective Date: 1 January 2018

This document sets forth terms of use for the Silhouette® Product Suite, and is divided into the following Parts:

- Part 1: Defined Terms
- Part 2: Warranty Terms
- Part 3: Use of Silhouette Software
- Part 4: Technical Support Policies
- Part 5: General Terms

Parts 1 and 5 apply to all Products, whereas Parts 2 through 4 are divided into sections applicable to individual Products, so you should review Parts 2 through 4 and your Order Form to determine the sections of Parts 2 through 4 applicable to the Products you are purchasing, leasing, licensing and/or borrowing from Us. These Terms of Use are supplemental to the Conditions of Transfer and End User License Agreement (**CTEULA**) applicable to the Products and all of terms of the CTEULA will apply to your purchase, lease, license loan and/or use of the Products.

### Part 1: Defined Terms

As used in these Terms of Use, the following terms have the following meanings:

**AML** means ARANZ Medical Limited.

**Hardware Use License** means a license to use one or more unit(s) of Silhouette Hardware provided by AML (or one of its distributors) under a Subscription Contract.

**Module** means an add-on, option or feature, which is associated with a Silhouette Software product but is licensed for an additional license fee.

**Upgrade** means a subsequent release of a Silhouette Software product which AML may offer to license holders with a current paid up Support Contract at no additional license fee and may include bug fixes and new functionality.

**Order Form** means the contract (including any Subscription Contract), quotation or purchase order accepted by AML designating which unit(s) of Silhouette Hardware (if any) are being sold, leased or loaned to You and which units of Silhouette Software (if any) are being licensed to You.

**Point of Care Access License** means a license to SilhouetteCentral that permits specified Point of Care Devices to communicate with an instance of SilhouetteCentral.

**Point of Care Device** means an image capture device, and includes a Silhouette Device, but also includes a smart phone or tablet provided by You running SilhouetteLite or SilhouetteLite+.

**Products** means, collectively, any Silhouette Device or Silhouette Accessory sold, leased or loaned to You (or provided to you under a Subscription Contract), any Silhouette Software licensed to You, and any Support or Services purchased by You.

**Services** means any additional services purchased by You from AML (and/or its distributor) over and above those services included in Your **Support Contract** (see Part 4 of the Terms of Use for more detail).

**Silhouette Accessory** means accessory hardware produced by AML, other than the Silhouette Devices, and includes the SilhouetteLite+ Sensor.

**SilhouetteCentral** means the executable code version of the application software for the storage and organization of wound data, produced by AML under the SILHOUETTECENTRAL™ trademark.

**SilhouetteConnect** means the executable code version of the application software for wound image processing and storage on a personal computer, laptop or tablet provided by You, produced by AML under the SILHOUETTECONNECT™ trademark.

**Silhouette Device** means one or more image capture devices in the Silhouette product suite produced by AML, including SilhouetteStar.

**Silhouette Hardware** means, collectively, the Silhouette Device(s) and the Silhouette Accessory(ies).

**SilhouetteLite** means the executable code version of the application software for wound image and data capture and processing, produced by AML under the SILHOUETTELITE™ trademark.

**SilhouetteLite EULA** means the End User License Agreement that the end user agrees to when he/she/it downloads SilhouetteLite or SilhouetteLite+ from the Apple App Store.

**SilhouetteLite+** means the executable code version of the application software for wound image and data capture and processing with the SilhouetteLite+ Sensor, produced by AML under the SILHOUETTELITE+™ trademark.

**SilhouetteLite+ Sensor** means the range finder accessory device, and associated battery charger, produced by AML under the SILHOUETTELITE+ SENSOR™ trademark.

**Silhouette Software** means collectively SilhouetteCentral and SilhouetteConnect, and also includes Upgrades and Modules with respect to each of same. The “Silhouette Software” also includes any documentation provided or made available to You by AML in connection with and pertaining to the Silhouette Software, whether in printed or electronic format, and any associated media or printed materials pertaining to the Silhouette Software. For clarity, as used herein, the term “Silhouette Software” does not include SilhouetteLite or SilhouetteLite+, as those products are licensed under the terms of SilhouetteLite EULA.

**SilhouetteStar** means the SILHOUETTESTAR™ image capture device.

**Subscription Contract** means a contract (including an Order Form) under which AML provides you with a bundle that may include licenses of Silhouette Software, a Hardware Use License, Limited Warranty, Support and/or Services for a defined fixed term (Fixed Term), and You agree to pay subscription fees for that Fixed Term.

**Support** means the support services that AML provides to license holders of the Silhouette Software who have paid for a Support Contract for the current support period (see Part 4 below).

**Support Contract** means the contract that the holder of a license of the Silhouette Software must purchase as a precondition to receiving Support and Updates during a designated support period (see Part 4 below).

**Terms of Use** means these ARANZ Medical Limited Silhouette® Product Suite Terms of Use, as such Terms of Use may be revised from time to time.

**You** or **Your** means the person or entity that purchases, leases, borrows or subscribes to use of Silhouette Hardware, purchases Support or Services, and/or holds a license of the Silhouette Software.

## Part 2: Warranty Terms

### Section 1 - Silhouette Hardware

#### Overview

Each unit of Silhouette Hardware is covered by a limited warranty (the **Limited Warranty**) for a period of 12 months from the date that unit is delivered to you. The Order Form may offer you the option of purchasing a warranty extension, pursuant to which the Limited Warranty may be extended for either an additional 12 or an additional 24 months; but the annual rate charged for the Limited Warranty for a unit of Silhouette Hardware will increase as the age of that unit increases and we reserve the right to not offer warranty extension on any unit of Silhouette Hardware.

#### Scope of Limited Warranty

The Limited Warranty covers failure of the unit of Silhouette Hardware due to manufacturing error or component failure, but expressly excludes any damage or failure that could reasonably be considered to result from: (i) negligence or misuse of the unit of Silhouette Hardware, including dropping of the unit of Silhouette Hardware, (ii) improper operation, use, storage, repair or maintenance of the unit of Silhouette Hardware, (iii) any modification to the unit of Silhouette Hardware not performed by us, or (iv) connection of the unit of Silhouette Hardware to other equipment or software to which it is incompatible.

All other representations or warranties (statutory, express or implied except any which may not lawfully be excluded) with respect to the Silhouette Hardware are expressly excluded. Without prejudice to the generality of the foregoing, the implied warranties of merchantability and fitness for a particular purpose are excluded. We will not be liable to you under the law of tort, contract or otherwise for any direct, indirect or consequential loss or damage, including any loss of profits, however caused, arising out of the use of, loss of use of or disrepair of the Silhouette Hardware. If any limitation of liability is invalid for any reason and we become liable for loss or damage that would otherwise have been excluded, such liability to You for all damages will not (other than as may be required by applicable law in cases involving personal injury) exceed the amount of fifty US Dollars (US\$50.00).

#### Warranty Procedure

In order to receive warranty service for a unit of Silhouette Hardware, the Limited Warranty for that unit of Silhouette Hardware must be in effect on the date on which a warranty claim is lodged by you. You may lodge a warranty claim by email or by calling our technical support line during Support hours. When a warranty claim is lodged, we will assign your warranty claim a Case Number. In most cases it will be necessary for you to ship the unit of Silhouette Hardware to us for evaluation of your warranty claim. If your warranty claim is covered by the Limited Warranty, we will repair or replace the damaged or defective article and will pay for shipping in both directions. If your warranty claim is not covered by the Limited Warranty, you

will be responsible for all shipping costs, and if you elect to proceed with repair, you will be responsible for the cost of repair at our usual rates as then in effect.

## **Section 2 - Silhouette Software**

### **Disclaimer**

If the Order Form includes one or more licenses of Silhouette Software, the Silhouette Software is licensed to you "as is" and all representations or warranties (statutory, express or implied except any which may not lawfully be excluded) are expressly excluded. Without prejudice to the generality of the foregoing, the implied warranties of merchantability and fitness for a particular purpose are excluded. You acknowledge that the Silhouette Software operates in a predictive manner relative to input of which AML has no control over the collection, use or interpretation, and you accept the entire risk as to the use and the results of the use of the Silhouette Software in the terms of correctness, accuracy, reliability and performance. You also accept the entire risk as to any conflict between Silhouette Software and other software on the hardware on which the Silhouette Software is installed.

## **Part 3: Use of Silhouette Software**

### **Section 1 - SilhouetteCentral – Customer Hosted**

#### **Overview**

This Section 1 applies if the Order Form includes a license of SilhouetteCentral where data is to be hosted by you on your server.

#### **Installation**

SilhouetteCentral is supplied by download from the internet or by other means. The software includes installation instructions for a person skilled in computer system administration to carry out the installation process. To assist in this installation, we will provide remote assistance by connecting to the server computer via the internet. You are responsible for coordinating within your organization to have a properly skilled person available at the site while our service person assists with the SilhouetteCentral installation.

Each Point of Care Device connects to SilhouetteCentral in one of two ways: (1) an indirect connection via a Point of Care Access License that permits an instance of SilhouetteConnect installed on a personal computer, laptop or tablet to communicate with an instance of SilhouetteCentral, or (2) a direct connection via a Point of Care Access License that permits the Point of Care Device to communicate directly with an instance of SilhouetteCentral. In either case, configuration is required as described below.

#### **Connection via SilhouetteConnect**

Each instance of SilhouetteConnect must be configured to connect with the specific SilhouetteCentral database to allow SilhouetteCentral to synchronize. This configuration is performed by you and all necessary setup information for configuring SilhouetteCentral will be provided to you by us. A Point of Care Access License is required to enable this connection.

ARANZ Medical will provide detailed instructions to you on how to configure an instance of SilhouetteConnect to connect to SilhouetteCentral. ARANZ Medical will provide telephone assistance in the setup of the first license of SilhouetteConnect at no charge. Any requested support for additional licenses of SilhouetteConnect will be considered as support for that license of SilhouetteConnect and processed accordingly.

You are responsible for the setup and maintenance of the connection of each personal computer, laptop or tablet on which SilhouetteConnect is installed to the internet and for ensuring that each instance of SilhouetteConnect is regularly synchronized with SilhouetteCentral. We highly recommend that you synchronize each instance of SilhouetteConnect on each day on which data is collected.

#### **Direct Connection**

Where an Point of Care Device is connected directly to SilhouetteCentral via a Point of Care Access License, each Point of Care Device must be configured to access your URL and instance of SilhouetteCentral. This configuration is performed by you and all necessary setup information is provided to you by us. You are responsible for the maintenance and performance (to our product minimum specifications) of your wireless internet connection to allow your Point of Care Device(s) to communicate with your instance of SilhouetteCentral. Your Point of Care Access License will specify the specific Point of Care Device(s) which may connect to an instance of SilhouetteCentral via that Point of Care Access License, and You agree not to circumvent this restriction.

In addition, where the Point of Care Device is a smart phone or tablet, it is necessary for the user to first download and install SilhouetteLite or SilhouetLite+. We will provide minimum specifications for Your smart phone or tablet, and you are responsible for the purchase and maintenance of the smart phone or table at your expense.

### **System Requirements**

We will provide minimum specifications for the computer system for the server. You are responsible at your expense for the purchase and maintenance of all hardware for the server computer. Note: In smaller installations, for example a wound care center or office, SilhouetteCentral can sometimes be installed on an existing computer in the facility. In larger installations, dedicated higher performance servers will be required.

You are responsible at your expense for the Microsoft software required to support SilhouetteCentral including the operating system and SQL Server database. Note that Microsoft currently provides SQL Server Express Edition at no charge. The Express edition has certain performance and database size limitations and is suitable for smaller installations of SilhouetteCentral.

You are responsible at your expense for all hardware and network infrastructure at your site including any remote locations. This includes any network data connection costs. You are also responsible for security and regular backup of data.

## **Section 2 - SilhouetteCentral – AML Hosted**

### **Overview**

This Section 2 applies if the Order Form includes a license of SilhouetteCentral where data is to be hosted by us.

### **Set up and Use**

SilhouetteCentral with data hosting by AML requires no software installation at your site for the SilhouetteCentral instance. Each Point of Care Device connects to SilhouetteCentral in one of two ways: (1) an indirect connection via a Point of Care Access License that permits an instance of SilhouetteConnect installed on a personal computer, laptop or tablet to communicate with an instance of SilhouetteCentral, or (2) a direct connection via a Point of Care Access License that permits the Point of Care Device to communicate directly with an instance of SilhouetteCentral. In either case, configuration is required as described below.

### **Connection via SilhouetteConnect**

Each instance of SilhouetteConnect must be configured to connect with the specific SilhouetteCentral database to allow SilhouetteCentral to synchronize. This configuration is performed by you and all necessary setup information for configuring SilhouetteCentral will be provided to you by us. A Point of Care Access License is required to enable this connection.

ARANZ Medical will provide detailed instructions to you on how to configure an instance of SilhouetteConnect to connect to SilhouetteCentral. ARANZ Medical will provide telephone assistance in the setup of the first license of SilhouetteConnect at no charge. Any requested support for additional licenses of SilhouetteConnect will be considered as support for that license of SilhouetteConnect and processed accordingly.

You are responsible for the setup and maintenance of the connection of each personal computer, laptop or tablet on which SilhouetteConnect is installed to the internet and for ensuring that each instance of SilhouetteConnect is regularly synchronized with SilhouetteCentral. We highly recommend that you synchronize each instance of SilhouetteConnect on each day on which data is collected.

### **Direct Connection**

Where an Point of Care Device is connected directly to SilhouetteCentral via a Point of Care Access License, each Point of Care Device must be configured to access your URL and instance of SilhouetteCentral. This configuration is performed by you and all necessary setup information is provided to you by us. You are responsible for the maintenance and performance (to our product minimum specifications) of your wireless internet connection to allow your Point of Care Device(s) to communicate with your instance of SilhouetteCentral. Your Point of Care Access License will specify the specific Point of Care Device(s) which may connect to an instance of SilhouetteCentral via that Point of Care Access License, and You agree not to circumvent this restriction.

In addition, where the Point of Care Device is a smart phone or tablet, it is necessary for the user to first download and install SilhouetteLite or SilhouetLite+. We will provide minimum specifications for Your smart phone or tablet, and you are responsible for the purchase and maintenance of the smart phone or table at your expense.

### **General**

We will provide instructions on web access to SilhouetteCentral. SilhouetteCentral can be accessed from a Microsoft Windows PC using Microsoft Internet Explorer (version 7 or later) web browser, which you will be required to provide at your expense.

We are responsible for connectivity charges relating to connecting SilhouetteCentral on our server to the internet. You are responsible for any other internet data charges – e.g. if there are charges for the connection of each personal computer, laptop or tablet on which SilhouetteConnect is installed to the internet, and/or for the connection of your Point of Care Device directly to Silhouette Central via a Point of Care Access License, and for performance and cost of the internet network traffic of any computer system used to access SilhouetteCentral.

We will provide hosting of SilhouetteCentral on the internet and we have sole discretion as to the means of providing this data hosting service (we may host this service on our servers or on third party servers). However we choose to host this service, and provided you comply with the requirements imposed on you under the Section entitled "Security" below, we are responsible for the maintenance and backup of the data transferred to the server hosting SilhouetteCentral.

The SilhouetteCentral server will be off-line for short periods for scheduled (and in some cases unscheduled) maintenance so 100% up-time of the server is not guaranteed. We will back up the SilhouetteCentral server content regularly according to standard industry practice.

### **Security**

We use standard industry practice employed in medical record systems to ensure the confidentiality of data stored on SilhouetteCentral.

You agree to configure SilhouetteConnect and SilhouetteCentral according to guidelines provided by us with regards to maintaining data confidentiality. All information is under username/password protection and you are responsible for selection and modification of all usernames and passwords and for ensuring that the confidentiality of this access information. You agree to allow us to access your instance of SilhouetteCentral for service purposes. You agree that you are responsible for any legal issues (other than our responsibilities with respect to confidentiality and back up described in the previous paragraph) relating to storage of data on SilhouetteCentral.

### **Termination**

You are permitted to terminate your license of SilhouetteCentral only as of the last day of a calendar quarter, by giving us written notice of termination at least 15 days prior to the last day of the quarter, except that where the Order Form specifies a minimum number of quarters, you may terminate your licence only as of or after the last day of the last specified quarter. We will continue to invoice you quarterly for, and you agree that you will continue to pay, Quarterly License Fees for SilhouetteCentral until the effective date of termination of your license.

Following the effective date of termination, including any termination by us pursuant to the terms of the CTEULA or these Terms of Use, we will take SilhouetteCentral off line, archive all images and wound assessment records and provide these to you. (This will be in the form of jpg images, an export of the wound measurement data in CSV (comma separated value) format file, and an export of the Silhouette format data in the event that in future the customer may require this.) A Data Archival Fee will apply to this service. Once this data transfer has occurred, we may, at our discretion, delete all patient data. We reserve the right to provide an alternate means of providing this data hosting service or to discontinue providing SilhouetteCentral at any time; provided, however, that we will not discontinue this service during the period that you have committed to pay hosting fees in the accepted Order Form.

### **Customization**

The software comprising SilhouetteConnect and SilhouetteCentral is standard, and without customization and configuration. Upon Customer request, a customization or configuration service can be made available for an additional charge.

## **Section 3 - SilhouetteConnect**

### **Overview**

This Section 3 applies if the Order Form includes a license of SilhouetteConnect.

### **Installation**

SilhouetteConnect is supplied by download from the internet or by other means, and must be separately installed on each personal computer, laptop or tablet running SilhouetteConnect. The software includes installation instructions for a person skilled in computer system administration to carry out the installation process.

### **System Requirements**

We will provide minimum specifications for the personal computer(s), laptop(s) and/or tablet(s) running SilhouetteConnect. You are responsible at your expense for the purchase and maintenance of the personal computer(s), laptop(s) and/or tablet(s). You are responsible at your expense for all other hardware and network infrastructure at your site including any remote locations, and for any network data connection costs. You are also responsible for security and regular backup of data.

### **Input/output Unit and Other Limitations**

Each license of SilhouetteConnect is restricted to use only on a single personal computer, laptop or tablet. You agree not to exceed this limitation. Where an instance of SilhouetteConnect is not integrated to connect to an instance of SilhouetteCentral, a maximum of 2000 assessments (or other number of assessments specified in the Order Form) may be stored with that instance of SilhouetteConnect. Where that limit is exceeded, you must either purchase an additional license of SilhouetteConnect or a license of SilhouetteCentral.

## **Part 4: Technical Support Policies**

These Technical Support Policies apply to technical support (**Support**) that we provide for the Silhouette Software:

- SilhouetteCentral
- SilhouetteConnect

### **Support Contracts**

Each licence of the Silhouette Software will only be entitled to Support during periods that license is under a current Support Contract. You will not be entitled to Support or Updates for any license of Silhouette Software for which a Support Contract is not purchased. Three levels of Support are offered under different Support Contracts: Minimum Support, Enhanced Support and Premium Support. Unless otherwise provided in an accepted Order Form, if your license is an annual license or is for a shorter Fixed Term, a Support Contract providing Minimum Support is included in the license fees charged for the Fixed Term (or any offered and accepted Renewed Term); provided, if you wish to purchase Enhanced Support or Premium Support for that license, additional fees apply. Unless otherwise provided in an accepted Order Form, if your licence is for a Continuous Term, your license fee will not include a Support Contract. In the case of a license for a Continuous Term, (1) you will not be entitled to Support or Updates unless you purchase a Support Contract for each applicable Support period, at our then current rates, (2) the Support period (usually one year) will be the period for which we have invoiced and you have paid support fees in advance, (3) you will not be required to pay Support fees, but you acknowledge that without Support and Updates the functionality of the Silhouette Software will not progress and may degrade over time, and (4) you may purchase a Support Contract at one of our three offered levels: Minimum Support, Enhanced Support or Premium Support. Further if you and/or a related person or entity holds more than one licence of the Silhouette Software, you or they will not be entitled to Support unless a current Support Contract is maintained on all such licences.

### **Provision of Support**

Support is provided through email and telephone during the Support hours designated in your Support Contract. We will provide you with a telephone number and email address for you to use in seeking Support. You are responsible for all telecommunications charges (telephone, internet, etc.) you incur in contacting us for Support. If a voicemail answers your call or you do not receive a response to your email request during your business hours, we will endeavor to respond within the applicable response time designated in your Support Contract. The person contacting us for Support on your behalf must be knowledgeable about the relevant Product and your environment in order to assist us in analyzing and resolving service requests, and must have a baseline understanding of the problem you are encountering and an ability to reproduce the problem in order to assist us in diagnosing and triaging the problem.

### **Scope of Support**

Support that we provide is remote assistance with technical questions about the Products. It also includes Updates as defined below. The scope of Support (whether Minimum, Enhanced or Premium) is designated in your Support Contract. Regardless of the level of Support purchased by you, Support does not include the following Services: training, product integration, project integration, project implementation, consulting, data review, data processing, data correction or user administration services, data archival services, but these Services may be available for additional fees either directly by us or through our distributors or agents. Support and Services are delivered in English only.

### **Updates and Modules**

Updates with respect to the Silhouette Software may be offered from time to time. Updates of our Silhouette Software Products are offered to license holders of those Products if your license is in effect, with a current paid Support Contract in effect, during the period the release is first offered. Updates and installation instructions are made available by download and you will be responsible for copying, downloading and installing the Updates. If we offer you an Update, but you do not accept it, we will have no obligation to provide Support of older versions. We may offer you Modules from time to time, subject to your payment of any additional license fees and agreement to any terms and conditions applicable to the Module. All Updates accepted by you and all Modules purchased by you will form a part of the Silhouette Software licensed to you and be subject to these Terms of Use and the CTEULA.

### **Lapsed Support**

If Support lapses because you have failed to purchase a Support Contract prior to the commencement of an offered Support period, and you subsequently wish to be reinstated in the Support program, you must:

- a) pay all support fees that would have been payable during the period Support was lapsed had you kept a Support Contract in place on a continuous basis.
- b) update your Silhouette Software to the latest major release.

### **Discontinuation of Support**

We may choose to discontinue Support of any of our Silhouette Software Products (or any release thereof) at any time in the future; however, if your licence is for a Continuous Term we will continue Support for a minimum period of three years from the date of your original purchase of your licence for a Continuous Term, so long as you have purchased a Support Contract for all Support periods during such three year period and have installed all Updates we have offered to you

### **Use of Information**

You recognize that in the course of receiving Support, you or your representatives may furnish data or other information to us or to our distributors or support agents. By furnishing such information you irrevocably consent to the use, transfer and processing of this information by us, our distributors and agents for support purposes and keeping you apprised of Support and Update information.

### **Contact Us**

We value your business and want you to experience success with Silhouette. If for any reason you are not satisfied with the Support you receive, please contact us at [quality@aranzmedical.com](mailto:quality@aranzmedical.com).

## **Part 5: General Terms**

The Products are supplied with the user interface and supporting documentation in English only.

We may perform any of our obligations under these Terms of Use through a distributor or agent.

These Terms of Use are subject to revision by us at any time, provided we will provide you with advance written notice of any such revisions.