

# Terms and Conditions

Welcome to TALi Health Pty Ltd ABN 54 600 516 550 (“TALi Health,” “we,” “us,” or “our”).

Our TALi DETECT and TALi TRAIN apps (“App”) are copyrighted, and belong to TALi Health.

Your use of the App is subject to these terms and conditions (“Terms and Conditions”).

PLEASE READ THESE TERMS AND CONDITIONS CAREFULLY. BY USING THE TALi DETECT OR THE TALi TRAIN APP, CREATING AN ACCOUNT, OR PAYING FOR THE TALi DETECT OR THE TALi TRAIN APP, YOU AGREE TO BE BOUND BY THESE TERMS AND CONDITIONS AND REPRESENT AND WARRANT THAT YOU ARE (A) AT LEAST 18 YEARS OLD OR (B) HAVE YOUR PARENT’S OR LEGAL GUARDIAN’S PERMISSION TO USE THE TALi DETECT OR THE TALi TRAIN APP. IF YOU ARE UNDER 18 YEARS OLD AND NOT A PERMITTED USER OR DO NOT WISH TO BE BOUND BY THESE TERMS AND CONDITIONS, YOU MAY NOT ACCESS OR USE THE APP OR CREATE AN ACCOUNT.

THESE TERMS AND CONDITIONS CONTAIN VERY IMPORTANT INFORMATION ABOUT YOUR RIGHTS AND OBLIGATIONS AND LIMITATIONS AND EXCLUSIONS THAT APPLY.

## 1. Introduction

- a. These Terms and Conditions set out the agreement between you and TALi Health in relation to your use of the TALi DETECT and/or the TALi TRAIN App and associated materials (“App”).
- b. These Terms and Conditions represent the entire terms agreed between us in relation to their subject matter and form a binding contract between TALi Health and You (“Contract”).
- c. By using the App, you accept and agree to be bound by these Terms and Conditions in full.
- d. If you disagree with these Terms and Conditions or any part of these Terms and Conditions, you must not use the App.

## 2. Your Account and access to the App

- a. In order to access and use the App, you must have an account (“Account”).
- b. Your Account will contain certain information about you.
- c. You represent and warrant that:
  - (i) all required information you submit is truthful and accurate; and
  - (ii) you will maintain the accuracy of such information.
- d. You must not allow any other person to use your Account to access the App.
- e. You may delete your Account at any time, for any reason, by contacting us at [info@talihealth.com](mailto:info@talihealth.com).
- f. You are responsible for maintaining the confidentiality of your Account login information and are fully responsible for all activities that occur under your Account.
- g. You agree to immediately notify us by contacting us at [info@talihealth.com](mailto:info@talihealth.com) of any unauthorised use, or suspected unauthorised use, of your Account or any other breach of security. We cannot and will not be liable for any loss or damage arising from your failure to comply with these requirements.
- h. If we believe or have reason to suspect that the App is being used by you in any way which is not permitted by these Terms and Conditions, we may suspend your use of the App and block access to your Account.

- i. You agree that you will use the App in a manner consistent with any and all applicable laws and regulations
- j. You have been granted limited, non-exclusive, non-transferable, revocable license to download, install and use one (1) copy of the App on one (1) tablet, which complies with the hardware and operating requirements specified on site where the App was downloaded, in accordance with supervision from a Provider, and subject to the requirements in these Terms and Conditions.
- k. Your access to the TALi DETECT App will expire once the initial assessment session has been completed.
- l. Once 25 training sessions of the TALi TRAIN App have been completed, access to the TALi DETECT App will be renewed to allow you to complete a final assessment session. Following completion, your access to TALi DETECT App will expire.

### **3. Acceptable use and conduct**

- a. You agree that you will not post, exchange, make available, provide, or process any Prohibited Content on the App. For the purposes of these Terms and Conditions, "Prohibited Content" means content that we believe, in our sole discretion, is objectionable, offensive, harmful (i.e., computer viruses) or unlawful or content that may cause harm to us, the App and other users, directly or indirectly.
- b. Any use of the App in violation of these Terms and Conditions may result in, among other things, immediate suspension or termination of your Account and/or suspension or termination of your rights to use the App. All suspension decisions are made in our sole discretion and may be made without prior notice to you.
- c. The TALi Health name, logo and all other trademarks appearing in the App are the property of TALi Health. You may not copy, alter, remove or destroy any such names, logos or trademarks.

### **4. Restrictions on Use of the App**

You agree not to copy the App, sub-license, rent, sell, assign, lease, lend, distribute, transfer, alter, modify, reproduce, translate, prepare derivative works of, or publicly display the App, in whole or in part, or use the App concurrently on multiple devices, decompile, reverse engineer, disassemble, decrypt, or create derivative works based on the App.

### **5. Assessment and training data**

- a. The information that is created when you use the App; for example, your usage, progress, and performance in the App ("Training Data"); is owned by TALi Health.
- b. Subject to these Terms and Conditions, TALi Health grants you a limited license to view and print one or more copies of your Training Data for your personal, non-commercial use.
- c. If you provide any comments, testimonials, feedback or suggestions to TALi Health regarding the App, or any of TALi Health's services ("Feedback"), TALi Health may use such Feedback for any purpose. So that we may incorporate such Feedback into TALi Health's products and programs and/or TALi Health's services, TALi Health alone will own all right, title and interest, including all related intellectual property rights, in and to all such Feedback, and in consideration for your use of the App, you hereby assign such Feedback to TALi Health free of charge.

- d. Subject to applicable law, you acknowledge and agree that TALi Health may:
  - (i) use de-identified data from the data and other information that you provide by means of your use of the App for analytical purposes;
  - (ii) aggregate such de-identified data with de-identified data from other Users; and
  - (iii) use this de-identified data for research purposes, such as publication in scientific journals or presented at conferences, or other purposes as required by TALi Health.
- e. TALi Health will not use or disclose such data (aggregated or otherwise) in any manner that may result in disclosure of your identity and any such use or disclosure of de-identified aggregated data must comply with all applicable law.
- f. We are not obligated to back up any of your personal information or your Training Data.

## 6. SWAN rating scale

- a. As part of the assessment process offered by TALi Health, the Strengths and Weaknesses of ADHD-symptoms and Normal-behaviour rating scales (SWAN; Swanson et al., 2012) has been leveraged for the user to provide additional points of references to complement reports generated by the App.
- b. The current version of the SWAN rating scales is described in Swanson, J. M., Schuck, S., Porter, M. M., Carlson, C., Hartman, C. A., Sergeant, J. A., Clevenger, W., Wasdell, M., McCleary, R., Lakes, K., & Wigal, T. (2012). Categorical and Dimensional Definitions and Evaluations of Symptoms of ADHD: History of the SNAP and the SWAN Rating Scales. *The International journal of educational and psychological assessment*, 10(1), 51–70.
- c. The SWAN is available free-of-charge to users registered on the TALi Portal, or can be accessed at [<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4618695/>]
- d. TALi Health has made and continues to make reasonable efforts to contact the author.

## 7. Proprietary Rights

- a. The App is protected by copyright laws and international copyright treaties, as well as other intellectual property laws and treaties. All rights in respect of the App are reserved. TALi Health continues to own all rights of authorship, including all copyright, trade secret, patent and other proprietary rights, in the App and other content provided to you and all other copies of such items that you are authorised by these Terms and Conditions to make.
- b. You agree not to delete, obscure or alter in any manner the copyright and other proprietary legends of TALi Health appearing on the original media of the App.
- c. You agree not to remove any copyright, trademark or other proprietary rights notices contained in or on the App; or “frame” or “mirror” any part of the App without prior written consent from TALi Health. Any unauthorized use, reproduction, modification, distribution, display, or performance of the App is strictly prohibited.
- d. You shall not disassemble, reverse compile or reverse engineer any part of the App. TALi Health reserve all rights not granted in these Terms and Conditions.

- e. TALi Health respects the intellectual property of others and asks that Users of the App do the same. In connection with the App, we have adopted and implemented a policy respecting copyright law that provides for the removal of any infringing materials and for the termination, in appropriate circumstances, of users of our App who are repeat infringers of intellectual property rights, including copyright.
- f. All trademarks, logos and service marks (collectively, "Marks") displayed on the App are TALi Health's property or the property of other third parties. You are not permitted to use these Marks without TALi Health's prior written consent or the consent of the third party that owns the Marks. You may not copy, reproduce, modify or decompile the App, share any account details concerning the App, sub-license, assign, sell, lease, lend, rent, transfer, charge or otherwise deal in the App or make the App available to a third party.
- g. All content included in or made available through any the App and associated Material such as text, graphics, logos, icons, images, audio, data compilations, digital downloads is the property of TALi Health, or its content suppliers and protected by Australian and international copyright laws. The compilation of all content included in or made available by TALi Health is the exclusive property of TALi Health and protected by Australian and international copyright laws.

## **8. Confidentiality**

- a. Each party agrees to keep all commercial, financial or other confidential information obtained from the other in connection with the App confidential.
- b. Each party will only disclose the confidential information to those of its employees, and sub-contractors who need to know the same for the purposes of the Contract and shall use all reasonable endeavours to procure that those employees, agents and sub-contractors abide by such restrictions.
- c. The obligations of confidentiality set out above shall not apply to any information which a party can show:
  - (i) at the time of its acquisition was in, or at a later date has come into, the public domain, other than as a result of a breach of its confidentiality obligations;
  - (ii) it knew prior to first disclosure to it by the other party; or
  - (iii) it received independently from a third party with the full right to disclose.
- d. Neither TALi Health, nor any of their affiliates or related entities will use or disclose such data (aggregated or otherwise) in any manner that may result in disclosure of Your or any other Users identity and any such use or disclosure of de-identified aggregated data must comply with all applicable law.
- e. We are not obligated to back up any of your User Content or your Training Data.

## 9. Data Protection

- a. We collect your personal information for the purpose of providing the App to you. This information will not be disclosed to third parties, except as required by law or to successors in title to our business and suppliers that process data on our behalf. We will retain this information to help improve our services to you.
- b. We undertake throughout the term of the Contract to maintain appropriate technical and organisational measures against the accidental, unauthorised or unlawful processing, loss, destruction, damage or disclosure of any personal data from our premises and adequate security programmes and procedures to ensure that unauthorised persons do not have access to such data or to any equipment used to process such data and you acknowledge that you have a similar duty to protect the personal data which you hold and that you will maintain suitable security measures.

## 10. Warranties

- a. We warrant that:
  - (i) we have full right and title to enter into the Contract; and
  - (ii) we will use reasonable skill and care in the performance of our obligations under your Contract.
- b. Because of the nature of sources from which we created the App and of the internet, we do not give you any other warranties. All other warranties, representations or terms having equivalent effect that might be implied by law are excluded to the extent permitted by law, including any warranties as to satisfactory quality or fitness for a particular purpose. In particular, we cannot guarantee:
  - (i) the accuracy of content contained in the App;
  - (ii) the availability of the App; or
  - (iii) that the App will be free from infection by viruses or anything else that has contaminating or destructive properties.
- c. No representative of TALi Health is authorised to give or make any other representation, warranty, condition or term or modify the warranties provided in this clause in any way.

## 11. Limitation of Liability

- a. TALi Health will not be liable for any special, indirect, consequential or incidental damages (including damages for loss of use) arising in contract, tort or otherwise from your use of or inability to use the App, or from any action taken (or refrained from being taken) as a result of using the App.
- b. You acknowledge and agree that we have no liability for any loss, claim or damage suffered by or made against you as a result of any unauthorised access to the App through your server/internal network or breach by any of you, or other parties of the terms of your Contract.
- c. You acknowledge and agree that we have no liability to you or any third party for any injury, directly or indirectly, caused by a violation of the App, its methods, instructions and/or warnings contained in the App.
- d. In any event, the liability of each of us to the other in respect of any claim for breach of contract, negligence or otherwise in relation to the App shall be limited to \$100.00.

- e. Nothing in these Terms and Conditions will limit either party's liability for death or personal injury directly caused by its negligence.
- f. You will promptly inform TALi Health in the event of any claim by a third party received by you in relation to the App and will comply with TALi Health's reasonable requests in relation to such claim.
- g. You agree to indemnify and hold TALi Health and its directors, officers, employees, agents, successors, and assigns (collectively, "Indemnified Parties") harmless from and against any claim, liability, loss, injury, damage, cost, or expense (including attorneys' fees) incurred by TALi Health or any Indemnified Party arising out of or relating to your: (i) use of the App; (ii) your personal information; (iii) your violation or breach of any provision in these Terms and Conditions or your violation of any rights of a third party; or (iiii) your violation of applicable laws or regulations.

## 12. Termination

- a. These Terms and Conditions shall remain in full force and effect for any period of time in which you have a current Account. You may terminate your Account and your Contract at any time and for any reason by providing notice of termination to us by sending an email to [info@talihealth.com](mailto:info@talihealth.com).
- b. We may suspend or terminate your Account and/or suspend or terminate providing the App to you (i) immediately, if we, in our sole discretion, believe that you are in breach of these Terms and Conditions; (ii) at any time, if we decide, in our sole discretion, to stop providing the App by sending an e-mail to you at the e-mail address that you have provided for your Account; or (iii) for any or no reason, by sending an e-mail to you at the e-mail address that you have provided for your Account.
- c. You understand that any termination of these Terms and Conditions and/or your Account may involve deletion from our databases of the information you provided in connection with your Account. We will have no liability whatsoever to you for any suspension or termination of your Account or any suspension or termination your access to the App, or any deletion of any information you have provided to us.

## 13. Variations

- a. TALi Health is continually seeking to improve the App.
- b. TALi Health reserves the right, at its discretion, to make changes to any part of the App provided that it does not materially reduce the content or functionality of the relevant service.

## 14. General

- a. Neither you nor TALi Health will be liable for any failure or delay in performing our respective obligations under these Terms and Conditions to the extent that the failure or delay is the result of any cause or circumstance beyond our reasonable control.
- b. You may not assign or transfer your rights or obligations under these Terms and Conditions without our written consent. We may assign or transfer our rights and obligations under these Terms and Conditions to another member of the TALi Health Group. For the purposes of this clause, "TALi Health Group" shall mean the companies controlling, controlled by or in current control with TALi Health.
- c. You acknowledge that you have not relied upon any statement or representation not recorded in the Contract inducing you to enter into it, provided that nothing in the Contract shall exclude the liability of either party for any pre-contractual statements or representations made fraudulently.

- d. If any provision of these Terms and Conditions is found to be invalid by any court having competent jurisdiction, the invalidity of that provision will not affect the validity of the remaining provisions of these Terms and Conditions which shall remain in full force and effect.
- e. Our failure to exercise or enforce any right or provision of these Terms and Conditions shall not operate as a waiver of such right or provision. If any provision in these Terms and Conditions is, for any reason, held to be invalid or unenforceable, the other provisions of these Terms and Conditions will be unimpaired and the invalid or unenforceable provision will be deemed modified so that it is valid and enforceable to the maximum extent permitted by law.
- f. Failure by either you or TALi Health to exercise any right or remedy under these Terms and Conditions does not constitute a waiver of that right or remedy.
- g. The relationship of the parties established by these Terms and Conditions is that of independent contractors, and not an employment, agency, partnership, franchise, joint venture or any other such relationship. Each of the parties shall conduct its respective business at its own initiative, responsibility and expense and shall have no authority to incur any obligations on behalf of the other party to these Terms and Conditions.
- h. Any notice to be given under these Terms and Conditions to either party may be served by the other party either by being sent by post to such party at the address set out on the Registration Form or such other address as that party may notify in writing to the other from time to time or by e-mail to such address or number as that party may notify in writing from time to time. Any notice served by post shall be deemed to have been served on the working day next following the date of posting or sending. Any notice sent by email shall be deemed to have been duly sent on the date of transmission, provided that a confirming copy thereof is sent by recorded first class delivery to the other party within 24 hours after transmission.
- i. These Terms and Conditions, and any claim, dispute or controversy of any nature arising out of or relating to these Terms and Conditions, shall be governed by, and construed solely and exclusively in accordance with the laws of Victoria Australia and you agree that the courts of Victoria, Australia shall have exclusive jurisdiction to settle any dispute which may arise out of, under, or in connection with these Terms and Conditions or the legal relationship established by it, and for those purposes irrevocably submit all disputes to the jurisdiction of the state and federal courts of Australia.
- j. The headings in these Terms and Conditions are for convenience only and will have no legal or contractual effect.
- k. Any reference to any legislative provision shall be deemed to include any subsequent re-enactment or amending provision.

**15. International Users**

- a. These Terms and Conditions were written in English. To the extent any translated version of these Terms and Conditions conflicts with the English version, the English version prevail.
- b. The App is located in Australia. If you choose to use the App or other services from other regions of the world with laws governing data collection and use that may differ from Australian law, then please note that you are transferring your Personal Information to Australia. By providing your Personal Information you consent to (a) such transfer, and (b) the application of Australian laws with respect to any dispute arising from or related to these Terms and Conditions, other than such rules, regulations, case law, and/or international treaties that would result in the application of the laws of a jurisdiction other Australia.

**TALi Health Contact Information**

If you have any questions about these Terms and Conditions, please contact us by e-mail at [info@talihealth.com](mailto:info@talihealth.com), by phone at 1300 082 013 or by writing to us at TALi Health, Level 5, 19 William Street Cremorne VIC 3121 Australia, in each case marking the message "Attention: Terms and Conditions." We will respond to your requests within 30 working days after the request is received.