

## TAND Toolkit App Terms of Use

These Terms of Use (the “Terms”) apply and govern your use of the mobile application called the “TAND Toolkit App” (the “App”), your use of the digital platform related to the App (the “digital platform”) as well as your participation in any questionnaires, checklists or surveys related to the App and/or the digital platform. By using the App and/or the secure platform, you are agreeing to all the terms below.

The University of Cape Town (UCT, with registered offices at Rondebosch, Cape Town, in South Africa, [www.uct.ac.za](http://www.uct.ac.za)) and the Vrije Universiteit Brussel (VUB, with registered offices at Pleinlaan 2, 1050 Elsene, Belgium, and registered in the Belgian Crossroads Bank for Enterprises under number 0449.012.406, [www.vub.be](http://www.vub.be)) (referred to throughout as “we” or “us”), offer content and services through the App, the digital platform, the questionnaires, checklists and surveys (collectively, the “Services”). The TAND Toolkit App is developed and maintained by Esperity BV, Blv Brand Whitlock 108/1, 1200 Brussels, Belgium, acting as a data processor on behalf of VUB and UCT. Esperity provides technical support, hosting, and system maintenance under a data processing agreement with VUB and UCT.

You must actively consent to use our Services by ticking the corresponding box in the app, and by doing so, you consent to these terms, including our Privacy Policy. If you do not agree to our Terms, including our Privacy Policy, in their entirety, you may not access or otherwise use the Services and/or the content (as that term is defined below) in any manner or form whatsoever.

If you are a parent, legal guardian or caregiver and you provide consent for your child, or the person for whom you are legally acting, to register for our Services, you agree to be bound by these Terms in respect of such child’s or person’s use of the Services.

### 1. Use of the Services and Your Account

#### 1.1 Who Can Use the Services

We want the App and the Services to be used as much as possible.

Our Services are, however, not available to any users previously suspended or removed from the Services.

If any person under the age of 12, an individual with developmental disability or any other vulnerable participant would like to use our Services, we suggest asking a parent, legal guardian or caregiver to assist in use of the app.

## 1.2 Your Account

You need to register for an account to access or use certain Services.

When you create an account for any of our Services, you must provide us with accurate and complete information as prompted by the account creation and registration process and keep that information up to date.

You are responsible for maintaining the privacy and confidentiality of any and all actions that take place while using your account. We are not responsible for any loss that results from unauthorised use of your username and password.

The Personal Data related to your account are governed by our Privacy Policy.

## 1.3 Service Updates, Changes and Limitations

The Services may change, and their form and functionality may change without prior notice to you.

We may provide updates (including automatic updates) for certain Services as and when we see fit. This may include upgrades, modifications, bug fixes, patches and other error corrections and/or new features (collectively, “**Updates**”). Certain portions of our Services may not properly operate if you do not install all Updates. You acknowledge and agree that the Services may not work properly if you do not allow such Updates and you expressly consent to Updates. Further, you agree that the Terms (and any additional modifications of the same) will apply to any and all Updates to the Services. We may change, suspend, or discontinue any or all of the Services at any time, including the availability of any product, feature, database, or content. In addition, we have no obligation to provide any Updates or to continue to provide or enable any particular features or functionality of any Service. We may also impose limits on certain Services or restrict your access to part or all of the Services without notice or liability.

## 1.4 Service Monitoring and Suspension

We reserve the right, but have no obligation, to monitor any accounts and/or activities conducted through or in any way related to the Services.

We may also deactivate, terminate or suspend your account or access to certain Services at any time: (1) if we, in our sole discretion, determine you are or have been in violation of these Terms or the spirit thereof, (2) if we, in our sole discretion, determine you have created risk or possible legal exposure for us, the general public, any third party, or any user of our Services, (3) in response to requests by law enforcement or other government agencies, (4) upon discontinuation or material modification of any Services, or (5) due to unexpected technical issues or problems. We will endeavor to notify you by email or the next time you attempt to access your account after any such deactivation, termination or suspension.

## 1.5 Security

The security of our users is important to us. While we work hard to protect the security of your Personal Data, User-Generated Content, and account, we cannot guarantee that unauthorised third parties will not be able to defeat our security measures.

## 2. Ownership and Use of Content

### 2.1 Definitions

For purposes of these Terms:

(i) **“TAND Toolkit App Content”** means any form of information, data or creative expression and includes, without limitation, video, audio, images, tools, text, ideas, communications, comments, software, executable files, and data elements derived therefrom, trademarks, service marks, branding, logos, and other similar assets, and applications, any of which may be generated, provided, or otherwise made accessible on or through the Services, with the exception of User-Generated Content.

(ii) **“User-Generated Content”** means any content that a user submits, transfers, or otherwise provides to or through the use of the Services, including data and information provided by the user when completing questionnaires, checklists and surveys related to the App.

### 2.2 Ownership

All copyright, trademarks and other intellectual property rights (registered and unregistered) in and on the TAND Toolkit App Content and the Services belong to us. Each user retains ownership, responsibility for, and/or other applicable rights in the User-Generated Content that he/she creates but grants a license of that User-Generated Content to us as explained in Section 2.5 below.

### 2.3 Our License to You

Subject to your compliance with these Terms, we grant you a limited, revocable, personal, non-transferable, and non-exclusive right and license to access and use the Services and TAND Toolkit App Content for your own personal, non-commercial purposes. You are not allowed to copy, modify, create a derivative work from, reverse engineer, sell, sublicense, transfer or exploit any right in the TAND Toolkit App Content or Services, or enable any third party to do so.

## 2.4 Acceptable Usage Guidelines

**2.4.1 TAND Toolkit App Content.** You agree to respect the license outlined in article 2.3 of these Terms, and you shall not download, copy, or save TAND Toolkit App Content, except (i) as expressly permitted by the functionality of certain Services as provided for in the specific guidelines and/or additional terms applicable to those Services, or (ii) solely for personal use or your records.

**2.4.2 Usage of the Services.** The Services are intended only for your personal, non-commercial use. You shall not use the Services to sell a product or service, increase traffic to your own website or a third-party website for commercial reasons (such as advertising sales), or otherwise undertake any endeavor aimed at deriving revenue. For example, you shall not take the results from a search of the Services and reformat and display them or mirror our home pages or results pages on your website. Moreover, you are not allowed to use another tool or service that searches our website or services on your behalf.

## 2.5 Your License to Us

When you provide User-Generated Content to us through the Services, you grant us a non-exclusive, irrevocable, royalty-free, freely transferable, sublicensable, worldwide right and license to use, host, store, reproduce, publish, distribute, transmit, adapt, and otherwise exploit such User-Generated Content, in a manner which is in line with our Privacy Policy. You acknowledge and agree that we have the right to use the User-Generated Content in line with these Terms and our Privacy Policy, and that you are not entitled to any compensation or other payment from us in connection with the use of your User-Generated Content.

The rights you grant under this article 2.5 are limited to purposes of scientific research and to allow us to operate the Services, in accordance with their functionality, improve the Services, and develop new Services. Notwithstanding the above, we will not make use of any of your User-Generated Content in a manner that is inconsistent with our Privacy Policy.

We reserve the right to monitor, remove or modify User-Generated Content for any reason and at any time, including User-Generated Content we believe violates these Terms and/or our policies.

You agree that you will respect the intellectual property rights of others. You represent and warrant that you have all the necessary rights to grant us the rights under this article 2.5 for all User-Generated Content that you submit in connection with the Services and will indemnify us for any breach of this representation and warranty.

## 2.6 Content Retention

Following termination of your account, we may retain your User-Generated Content for research purposes, backup, archival, or audit purposes, or as otherwise required or permitted by law. Further, we may retain and continue to use any of your User-Generated Content that otherwise has been stored or shared through the Services as mentioned in art. 2.5. For more information, please review our Privacy Policy.

## 3. Intellectual Property

If you believe TAND Toolkit App Content or User-Generated Content infringes intellectual property, please notify us immediately using the contact information mentioned in article 15 of these Terms. It is our policy to investigate any allegations of infringement brought to our attention. Please provide us with the following information in your notice of a suspected violation:

- Identification of the material being infringed.
- Identification of the material that is claimed to be infringing.
- Contact information for the notifying party (the **“Notifying Party”**), including name, address, telephone number, and email address.
- A statement that the Notifying Party has a good faith belief that the material is not authorised by the owner, its agent or law.
- A statement made under penalty of perjury that the information provided in the notice is accurate and that the Notifying Party is authorised to make the complaint on behalf of the owner.
- A physical or electronic signature of a person authorised to act on behalf of the owner of the rights on the material that has been allegedly infringed.

You acknowledge that if you fail to comply with all of the requirements of this section, your notice may not be valid.

## 4. Mobile Services

### 4.1 Wireless Carrier and Device Considerations

To use or access our Services, you will need a compatible device. We cannot guarantee the Services and/or the App will be compatible with, or available on, your device. We do not charge for use of the Services and/or the App. Your phone company’s or internet provider’s normal messaging, data, and other rates and fees, however, will still apply.

## 4.2 Mobile Application License

We hereby grant you a limited, personal, non-exclusive, non-transferable, non-sublicensable, revocable license to use the App and/or the Services, solely for your personal use for lawful purposes. With respect to any open source or third-party code that may be incorporated in the App and/or the Services, such open-source code is covered by the applicable open source or third-party license, if any, authorising use of such code.

## 5. Accuracy and Reliance on TAND Toolkit App Content

### 5.1 Disclaimer Regarding Accuracy and Reliance on TAND Toolkit App Content

We make no representations or warranties as to the accuracy, reliability, completeness or timeliness of any TAND Toolkit App Content available through the Services, and we make no commitment to update such content.

User-Generated Content is the sole responsibility of the user from whom such User-Generated Content originated. All information is provided “as is” without any representation, warranty or condition as to its accuracy or reliability.

Except as otherwise set out in these Terms, and to the maximum extent permitted by applicable law, we are not responsible or liable, either directly or indirectly, for any injury, illness, or damages sustained from your use of, or inability to use, any Services or features of the Services, including any TAND Toolkit App Content or activities you access or learn about through our Services even if caused in whole or part by the action, inaction or negligence of others.

### 5.2 Not Medical Advice

Any and all services provided by, in and/or through the Services (including but not limited to TAND Toolkit App Content) are for informational purposes only. We do not provide medical services or render medical advice. Nothing contained in the Services should be construed as such advice or diagnosis. The information and reports generated by us should not be interpreted as a substitute for physician consultation, evaluation, or treatment, and the information made available on or through the Services should not be relied upon when making medical decisions, or to diagnose or treat a health condition or illness. Your use of the Services does not create a doctor-patient relationship between you and us.

## 6. Modifications to the Terms

We reserve the right to modify these Terms by posting revised Terms on and/or through the Services.

## 7. No Warranties

Except where prohibited by law, we expressly disclaim all warranties, representations and guarantees of any kind, whether oral or written, express, implied, statutory or otherwise to the fullest extent permissible under the law. The services and all content are provided on an “as is” and “as available” with all faults bases.

Without limiting the foregoing, you understand that, to the maximum extent permitted by applicable law, we make no warranty regarding the quality, accuracy, timeliness, truthfulness, completeness, availability, or reliability of any of the Services or any TAND Toolkit App Content. To the maximum extent permitted by applicable law, we do not warrant that (i) the Services will meet your requirements or provide specific results, (ii) the operation of the Services will be uninterrupted, virus- or error-free or free from other harmful elements or (iii) errors will be corrected. Any oral or written advice provided by our agents or us does not and will not create any warranty. To the maximum extent permitted by applicable law, we also make no representations or warranties of any kind with respect to the TAND Toolkit App Content. User-Generated Content, in particular, is provided by and is solely the responsibility of the users providing that content. No advice or information, whether oral or written, obtained from other users or through the Services, will create any warranty not expressly made herein. You therefore expressly acknowledge and agree that use of the Services, as well as the divulgence of any outcome related to the use of the Services, is at your sole risk and that the entire risk as to satisfactory quality, performance, accuracy and effort is with you.

## 8. Limitation of Liability

You expressly understand and agree that we shall not be liable to you for any direct, indirect, incidental, special, consequential and/or exemplary damages including, but not limited to, damages for pain and suffering, personal injury/wrongful death, loss of income, or damages for loss of profits, goodwill, loss of data or other intangible losses (even if we have been advised of the possibility of such damages).

To the fullest extent permissible by law, we also shall not be liable to you for:

- (i) The use or the inability to use the Services and/or the TAND Toolkit App Content.
- (ii) The failure to realize any specific mental health, psychiatric or other benefit or related outcome.
- (iii) Any other matter relating to the Services and/or TAND Toolkit App Content.

This limitation applies to all causes of action, in the aggregate including, but not limited to breach of contract, breach of warranty, negligence, strict liability, medical and other malpractice, misrepresentation and any and all other torts. You hereby release us from any and all obligations, liabilities and claims in excess of the limitations stated herein.

If applicable law does not permit such limitation, the maximum liability of us to you under any and all circumstances will be five hundred (500) euro.

Nothing in these Terms limit or exclude our responsibility for (1) fraudulent representations made by us, (2) death or personal injury caused by our negligence or willful misconduct, or (3) non-execution of any material contractual obligation.

## **9. Indemnification**

To the maximum extent permitted by applicable law, you agree to indemnify and hold us harmless from any claim or demand, including reasonable accounting and attorneys' fees, made by any third-party due to or arising out of (a) your use of the Services, (b) your violation of these Terms, (c) your use or misuse of any user's Personal Data, (d) any violation of the rights of any other person or entity by you, or (e) your employment of the Services to meet another user in person. We reserve the right, at your expense, to assume the exclusive defense and control of any matter for which you are required to indemnify us under the Terms, and you agree to cooperate with our defense of these claims.

## **10. Governing Law**

These Terms shall be governed by and construed in accordance with the laws of Belgium, without regard to its conflict of law principles.

## **11. Dispute Resolution**

All disputes arising under the Terms between you and us will be subject to the jurisdiction of the courts located in Brussels, Belgium, and you irrevocably consent to the exclusive jurisdiction and venue of such courts.

## **12. International Terms**

We provide our Services for a global community of users. We make no claim that the Services may be lawfully viewed or that TAND Toolkit App Content and/or User-Generated Content may be downloaded at your location and the Services may not be legal in certain countries. If you access and/or use the Services, you do so at your own risk and you are responsible for compliance with the laws of your jurisdiction and you agree to transfer certain information from your location to us.

### 13. Survival

If our relationship or these Terms terminate, it will not limit any of our rights or remedies, and any provision of these Terms that must survive in order to give proper effect to the intent and purpose of these Terms will survive termination, including without limitation Sections 2 (Ownership and Use of Content), 7 (No Warranties), 8 (Limitations of Liability), 9 (Indemnification), 10 (Governing Law), 11 (Dispute Resolution), and 13 (Survival).

### 14. Miscellaneous

You agree that no joint venture, partnership, employment, or agency relationship exists between you and us as a result of the Terms or your use of the Services. The Terms constitute the entire agreement between you and us with respect to your use of the Services.

Our failure to exercise or enforce any right or provision of the Terms does not constitute a waiver of such right or provision.

If any provision of the Terms is found by a court of competent jurisdiction to be invalid, the parties nevertheless agree that the court should endeavor to give effect to the parties' intentions as reflected in the provision, and the other provisions of the Terms remain in full force and effect.

You may not assign, delegate, or otherwise transfer your account or your obligations under these Terms without our prior written consent. We have the right, in our sole discretion, to transfer or assign all or any part of our rights under these Terms and will have the right to delegate or use third-party contractors to fulfill our duties and obligations under these Terms and in connection with the Services.

### 15. Contact Us

If you have any feedback, questions or comments about the Services, please contact us and include in any email or postal mail your full name, email address and postal address. As point of contact, Prof. Anna Jansen, Mental Health and Wellbeing Research Group, Vrije Universiteit Brussel, Laarbeeklaan 102, 1090 Jette (Belgium) ([anna.jansen@vub.be](mailto:anna.jansen@vub.be)) or Prof. Petrus de Vries, University of Cape Town ([petrus.devries@uct.ac.za](mailto:petrus.devries@uct.ac.za)) will respond to all your inquiries.