

END-USER LICENCE AGREEMENT (PATIENT)

PLEASE READ THIS END USER AGREEMENT CAREFULLY, AND IF YOU ARE UNDER THE AGE OF 18 AND ACCESSING THE, PROGRAM “MANAGING WORRY AND SADNESS FOR TEENS”, MAKE SURE THAT YOUR PARENT OR LEGAL GUARDIAN READS AND AGREES WITH THIS AGREEMENT ON YOUR BEHALF. YOU AGREE TO BE BOUND BY ALL OF THE TERMS AND CONDITIONS OF THIS USER AGREEMENT BY CLICKING THE “I ACCEPT” BUTTON. IF YOU DO NOT AGREE TO BE BOUND BY ALL OF THE TERMS AND CONDITIONS OF THIS USER AGREEMENT, YOU ARE NOT PERMITTED TO USE OR ACCESS THIS WEBSITE OR USE THE APP (AS DEFINED BELOW).

1 Welcome

THIS WAY UP Clinic is a website, application and service which is owned and operated by St Vincent’s Hospital Sydney Limited (ACN 054 038 872) (**we, us, our**). THIS WAY UP Clinic is a unit of the Clinical Research Unit for Anxiety and Depression at St Vincent’s Hospital, Sydney. The unit works in collaboration with the University of New South Wales (**UNSW**).

2 Agreement

2.1 This End-User Licence Agreement (**Agreement**) is a legal agreement between you (meaning any person using the App provided that if such person is under 18 years of age and accessing the “Managing Worry and Sadness for Teens” program, it also includes such person’s parent or legal guardian).and us regarding your use of the THIS WAY UP web application (**App**). Please read these Agreement terms carefully before accessing and using the App. If you are registering on behalf of a child under the age of 18 to access the “Managing Worry and Sadness for Teens” program, then you agree to provide the required level of supervision and guidance as set out in clause 2.3 below.

2.2 Your use of the App is governed by this Agreement, together with any other policies, disclosures, updates, rules, postings, bulletins and other terms listed or communicated on, or through, the App (collectively the **Terms of Use**). If there is any inconsistency between any part of this Agreement and the Terms of Use, these Agreement terms prevail to the extent of the inconsistency.

2.3 Children between the ages of 11- 18 (Young Adult Users) are welcome to access and complete the “TeenSTRONG - Managing Worry and Sadness for Teens” program, provided they do so with their parent or legal guardian’s permission who will actually complete the registration on behalf of the Young Adult Users. Use of the Managing Worry and Sadness for Teens program on the App by Young Adult Users is to be fully supervised by either their parent(s) or legal guardian. By accepting the terms set out in this Agreement the parent/legal guardian of any Young Adult User agrees to read and comply with the Information and Guideline for parents/carers which can be accessed through the Managing Worry and Sadness for Teens program modules. If the Young Adult User has been referred to use the Managing Worry and Sadness for Teens program on the App by a clinician, the parent/legal guardian will still be required to provide the same required level of guidance and supervision.

3 Acceptance

By clicking "I AGREE", you agree to be bound by these Agreement terms. If you do not agree with these Agreement terms, you must not access or use the App.

4 Licence

4.1 Subject to these Agreement terms (including payment of the applicable fees), we grant you a revocable, non-transferable, non-exclusive and limited licence to access and use the App on your compatible device, in a machine executable object code form, for your personal use only (**Licence**).

- 4.2 The Licence expires 90 days after you register to use the App and you receive a confirmation email from us. If we determine, in our sole discretion, that your progress is satisfactory, we may extend the term of this Licence by 90 days.

5 Warning

- 5.1 The App is not intended to be a substitute for professional advice. The diagnosis and treatment of a clinical condition can only be undertaken in person by a qualified healthcare professional. You should always seek the advice of a qualified healthcare professional with any questions you have regarding your health or a medical condition.

- 5.2 If you:

- (a) require urgent medical attention;
- (b) are at risk of harming yourself or someone else; or
- (c) are unsure about the suitability of the App, or its contents, for your condition,

you must seek the advice of a qualified healthcare professional. You may view crisis and emergency information at <https://thiswayup.org.au/urgent-help/>.

6 Supervision

- 6.1 If the App is provided to you as a "self-help" service, you acknowledge and agree that:

- (a) your use of the App will not be monitored or reviewed by a healthcare professional; and
- (b) we are not required to follow up with you, outside the automated interactivity of the App, regarding your care or mental health.

- 6.2 If your healthcare professional gives you a prescription to use the App, you acknowledge and agree that:

- (a) when you register with us, you must provide:
 - (i) information about your healthcare professional; and
 - (ii) the prescription code you have received from your healthcare professional;
- (b) a prescription code is personal and can only be used once. A prescription code is valid for 12 months from the date of issue;
- (c) we may assess whether the App and its contents are suitable for you. If we determine the App and its contents are not suitable for you, this Agreement will be terminated immediately by written notice to you and clause 21 below applies to fees already paid by you;
- (d) your use of the App may be monitored or reviewed by us and/or your healthcare professional;
- (e) we may disclose information about your use of the App to your healthcare professional; and
- (f) we may follow up with you regarding your use of the App.

7 Eligibility

- 7.1 If the App is provided to you as a "self-help" service, in order to be eligible to use the App, you must:

- (a) be over the statutory legal age for consent for medical treatment in the jurisdiction where you are living or accessing the App which in New South Wales is 16, unless you are under between the ages of 11- 18 years of age and accessing the Managing Worry and Sadness for Teens program and then only provided that person's parent or legal guardian has registered for use of the App on behalf of the Young Adult User;
- (b) ordinarily reside in Australia;
- (c) not have a serious mental health condition (i.e. diagnosed with schizophrenia, bipolar disorder, or drug or alcohol dependence); and
- (d) register with us as an account holder, by completing the relevant application forms.

7.2 If your healthcare professional gives you a prescription to use the App, in order to be eligible to use the App, you must:

- (a) not have a serious mental health condition; and
- (b) register with us as an account holder, by completing the relevant application forms.

8 Changes to the App and Agreement Terms

8.1 We may modify, change or update the App at any time, with or without notice. In the event of any such modification, change or update, we do not represent that any features or functionalities of the App will remain.

8.2 We may change these Agreement terms at any time, with or without notice. We may require you to confirm your acceptance of changes before you continue accessing or using the App.

8.3 You should consider any changes that we notify to you and regularly check these Agreement terms for any changes. If these Agreement terms are changed, you must comply with the updated Agreement terms. If you do not agree to the updated Agreement terms, you must immediately stop accessing or using the App.

9 Account and Login Details

9.1 As a registered account holder you will receive a login and password (**Login Details**), which you can use to access the App. We will send you your Login Details in a confirmation email.

9.2 In order to receive your Login Details you must provide information about yourself (including your name and an email address) (**Account Information**). You agree to provide true, accurate, current and complete Account Information, and to maintain and promptly update your Account Information in order to ensure that it remains true, accurate, current and complete.

9.3 You must not have more than one active account at any time, whether this is by use of a different name, email address, an alias or any other combination.

10 Permitted Use and Restrictions

10.1 You must:

- (a) use the App in accordance with these Agreement terms, our reasonable directions, our content requirements and all applicable laws;
- (b) take reasonable steps to protect your Login Details from unauthorised use; and
- (c) ensure that no data, information or other content posted, entered or uploaded onto the App is inappropriate or may cause offence, distress, menace or harassment (including profanities or indecent, obscene, racist, sexist, defamatory or other discriminatory content).

10.2 You must not:

- (a) use the App for any commercial purpose;
- (b) assign, sub-licence, grant a security interest over or otherwise transfer any of your rights in respect of the App;
- (c) provide your Login Details to any other person;
- (d) allow any other person to use your Login Details;
- (e) copy, reproduce, store, transmit, publish, modify, translate into any language, disassemble, reverse engineer, reverse assemble or otherwise create derivate works from any part of the App or its contents, except and only to the extent that such activity is expressly permitted by these Agreement terms or applicable laws;
- (f) access or use the App in a manner which would expose us to the risk of any claims or other legal or administrative actions;
- (g) use the App to distribute any form of malicious, destructive or harmful code (including viruses, Trojan horses and worms) or any instructions activating such codes;
- (h) use the App in a manner which interferes, or threatens to interfere, with the efficiency or security of the App (or the servers or networks connected to the App) or the provision of the App by us to another person; or
- (i) use the App in a manner which infringes any other person's intellectual property rights, privacy rights or confidential information.

10.3 We may investigate your use of the App in order to determine if a violation of these Agreement terms has occurred or to comply with applicable laws.

11 Fees

- 11.1 You must pay all applicable fees relating to your use of the App and the Licence.
- 11.2 You agree that the prices, fees and charges displayed within the App are current at the time of display and may vary at any time with or without notice.
- 11.3 Subject to the exceptions set out in clause 21 below, all payments made to us for use and access to the App are final and non-refundable.
- 11.4 You are responsible for any data usage fees and other third party charges you incur in connection with your access to, download and use of the App (including the fees that may be charged by your internet service provider and/or other service providers).

12 Intellectual Property Rights

- 12.1 All rights (including intellectual property rights such as copyright and trade marks), whether subsisting now or in the future, in the App and its contents are owned by or licensed to us.
- 12.2 We reserve all rights which are not expressly granted to you under this Agreement.

13 Warranties

13.1 The App is provided to you on an "as is" and "as available" basis. You agree that your use of the App is at your sole risk. Without limiting clause 16 below, we do not warrant that:

- (a) the App or its contents will meet your specific needs or requirements;
- (b) the App or its contents will be uninterrupted, timely, secure or error-free;
- (c) the App or its contents will be of merchantable quality or fit for any purpose;

- (d) the results (including any test or assessment results) which may be obtained from the use of the App will be accurate or reliable;
- (e) the quality of any products, services, information or other material you obtain or purchase through the App will meet your expectations; or
- (f) errors in the App or its contents will be corrected.

14 Third Party Content

- 14.1 We take reasonable care in compiling the App and its contents. However, the contents may not always reflect the most recent developments in medical knowledge or science. We encourage you to consult other sources in order to confirm the information you receive from the App.
- 14.2 Links to other websites are provided for your convenience only. We do not endorse nor accept responsibility for the accuracy or completeness of the information you receive from any other websites.

15 Privacy and Information Provided by You

- 15.1 The App may contain information or material which is posted, entered or uploaded by you or other users (**User Content**). You agree that, in respect of all User Content, we are a distributor only and we are not responsible for the accuracy or completeness of that information.
- 15.2 User Content and certain other information about you (including personal information and health information, as defined in the *Privacy Act 1988* (Cth)) are subject to our Privacy Policy, as amended from time to time, which you may view at <https://thiswayup.org.au/uploads/privacy-policy.pdf> (**Privacy Policy**).
- 15.3 If you post, enter or upload User Content:
 - (a) you grant us an irrevocable, non-exclusive and royalty-free worldwide licence to use, host and distribute the User Content;
 - (b) you agree that your User Content may be seen and used by other users of the App;
 - (c) we will take reasonable steps to de-identify User Content to protect your privacy;
 - (d) we may send you correspondence related to your User Content; and
 - (e) you must only submit User Content which belongs to you or which you are permitted to submit by the owner of the content.
- 15.4 We may at any time, with or without notice, filter, remove or refuse to publish User Content in our sole discretion.

16 Liability

- 16.1 Subject to clauses 16.2 and 16.3 below, for all matters connected to:
 - (a) your use or inability to use the App;
 - (b) the contents of the App or any part of the App; or
 - (c) injury to you or a third party as a result of your use of the App,

to the maximum extent permitted by law, we exclude all warranties, rights, remedies and liability to you or a third party, whether arising under law (including rules of common law, principles of equity, statutes and regulations), tort (including negligence), breach of contract or otherwise.

- 16.2 Despite the foregoing, nothing in these Agreement terms excludes, restricts or modifies any consumer guarantee, right or remedy conferred on you by the Australian Consumer Law (being Schedule 2 of the *Competition and Consumer Act 2010* (Cth)) or any other applicable law that cannot be excluded, restricted or modified by agreement (**Non-Excludable Guarantee**).
- 16.3 To the maximum extent permitted by law, our liability for breach of a Non-Excludable Guarantee is limited, at our option, to either resupplying the App to you or paying the cost of re-supplying the App to you.
- 16.4 You are responsible for any information or User Content you post, enter or upload onto the App, or which is posted, entered or uploaded by another person using your Login Details.

17 Release

You hereby consent to release us, our personnel and subcontractors from any loss (including legal costs and expenses on a full indemnity basis) or liability you suffer arising out of, or in connection with, your use or inability to use the App or with respect to the contents of the App or any part of the App (including errors or omissions contained in the App).

18 Sync

You will not be able to synchronize the information you have stored in the App with our mobile device application (**Mobile App**) and vice versa. Access to the Mobile App is pursuant to the End-User Licence Agreement found on the Mobile App and any other policies, disclosures, updates, rules, postings, bulletins and other terms listed or communicated on, or through, the App or the Mobile App.

19 Denial of Access

We may at any time deny all or part of your access to the App where, in our reasonable opinion, you fail to comply with these Agreement terms, or otherwise suspend or terminate your access to the App without being obliged to give you a reason or prior notice (including if your account or Login Details are used in an unusual or suspicious way).

20 Termination

- 20.1 Without limiting our rights under these Agreement terms or at law, we may:
- (a) terminate this Agreement immediately by written notice to you, if you are in breach of any of these Agreement terms and such breach is not remedied within a reasonable timeframe notified by us; or
 - (b) discontinue the App (including ceasing to provide administrative and technical support for the App) in our sole discretion and at any time.
- 20.2 If any event described in clause 20.1 above occurs, we may direct you to delete all copies of the App, and related documentation, which are in your possession or under your control.
- 20.3 You may terminate this Agreement at any time (including if you consider that changes we make to these Agreement terms are materially detrimental to you) by deleting all copies of the App, and related documentation, which are in your possession or under your control.

21 No Refund

If:

- (a) this Agreement is terminated for any reason; or
- (b) we deny all or part of your access to the App, for any reason,

we will not be liable to refund any fees paid by you for your use of the App and the Licence. Furthermore, refunds are not payable in respect of periods during which the App is unavailable for maintenance or troubleshooting reasons.

22 General

- 22.1 These Agreement terms are governed by and must be construed in accordance with the laws of New South Wales, Australia and you irrevocably and unconditionally submit to the non-exclusive jurisdiction of the courts of New South Wales, Australia and all courts which have jurisdiction to hear appeals from those courts.
- 22.2 If any clause or part thereof of these Agreement terms is found to be void, unenforceable or invalid, then it must be severed from these Agreement terms, leaving the remainder in full force and effect, provided that the severance has not altered the basic nature of these Agreement terms.
- 22.3 The termination of this Agreement will not affect the continuing rights and obligations of the parties under any provision of this Agreement which, by its nature, is to survive termination and/or that is required to give effect to such termination or its consequences.
- 22.4 These Agreement terms represent the entire agreement between the parties concerning the subject matter of these Agreement terms and they supersede any prior proposal, representation, or understanding between the parties.

23 Support

If you need any technical assistance with the App you can contact us on (02) 8382 1408 between 9am–5pm AEST Monday to Friday (excluding public holidays) or email us using the link provided in the App. Our technical support team will not provide medical advice.

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