



## Terms of Use –VALD Apps

PLEASE READ THESE TERMS CAREFULLY BEFORE USING THE FOLLOWING **VALD APPS** –DYNAMO, FORCEDECKS, FORCEFRAME, NORDBORD, SMARTSPEED, VALDHUB, TELEHAB, HUMANTRAK.

These terms (**'Terms'**) govern your use of the VALD Apps (**'Apps'**) and the services, features, content, websites (or other linked pages) or applications offered, from time to time, by VALD Pty Ltd (**'us', 'we', 'our' or 'VALD'**) in connection with the Apps (collectively, the **'Services'**). These Terms contain important information about the Services provided to you, including information about future changes to these Terms.

'You' and 'your' refer to the person accessing or using the Services. You have been given access to the Services by the organisation which you represent (**'Organisation'**). VALD and the Organisation have entered into an agreement that set out the terms for the Organisation to use the VALD products (**'Services Agreement'**). These terms set out your rights and obligations as a person that uses of the Services, and are distinct from the obligations of the Organisation under the Services Agreement. These Terms create a direct relationship between you (as a user of the Services) and VALD so that we can appropriately manage use of the Services.

By accessing and using the Services in any manner, you acknowledge that you have read, understood and agree to be bound by these Terms and the VALD Privacy Policy ([www.vald.com/privacy](http://www.vald.com/privacy)) (**'Privacy Policy'**), which is incorporated into these Terms by this reference.

YOU MUST ONLY USE THE SERVICES IN ACCORDANCE WITH THESE TERMS AND THE PRODUCT USER GUIDES OR TRAINING SUPPLIED BY VALD. IF YOU DO NOT AGREE TO THESE TERMS (INCLUDING THE PRIVACY POLICY), YOU ARE NOT AUTHORISED TO USE THE SERVICES AND MUST IMMEDIATELY CEASE YOUR USE OF AND ACCESS TO THE SERVICES.

If you have any questions about the Apps, the Services or these Terms, then please do not hesitate to contact us at [support@vald.com](mailto:support@vald.com).

IMPORTANT: You should note that, notwithstanding anything in these terms and conditions, certain legislation may imply terms into these Terms (including warranties, conditions or guarantees or impose obligations or remedies) which cannot be excluded, restricted or modified except to a limited extent. Such legislation may, for example, impose non-excludable statutory guarantees that services will be rendered with due care and skill (with certain remedies available to consumers for certain breaches of such guarantees). To the extent that such legislation applies, these Terms must be read subject to those statutory provisions and nothing in these Terms is intended to alter, restrict or exclude the operation of such provisions.

### 1. Introduction

- 1.1 The Apps are mobile applications provided by VALD that supports and enhances the experience of users of their use of VALD products, including DynaMo, ForceDecks, ForceFrame, NordBord, SmartSpeed, VALD Hub and HumanTrak.
- 1.2 So that we can safely and responsibly manage our mobile applications (including the Apps) and our websites for all of our users, your use of the Services is subject to these Terms (including the Privacy Policy). VALD may modify these Terms and the Privacy Policy at any time and such modification will be effective upon posting such modifications at <https://vald.com/terms-and-conditions>. By continuing to access or use the Services after such modification, you are agreeing to be bound by the modified Terms, Privacy Policy or Apps, as applicable.

## **2. Registration**

- 2.1 In order to use the Services, you must have an account (**'Account'**). An account will be created by your organisation. If you are the person responsible for creating accounts, then the remaining parts of this clause 2 and 3 as it relates to Accounts applies in respect of the Accounts you create. You agree to provide true, accurate and complete information you create your Account and keep your account information current and updated following its creation.
- 2.2 VALD may accept or reject applications to become a User. In general, VALD will only reject an application to become a User if it has concerns that the applicant has in the past, or is reasonably likely to in the future, to breach this Agreement.
- 2.3 You must not select or use as a username:
- (a) a name of another person with the intent to impersonate that person; or
  - (b) a name which is not your name and which another person has rights to use.
- 2.4 You are solely responsible for any and all activities that occur under your Account or password, and for keeping your Account password confidential and secure. You may never use another person's account or registration information for the Services without permission. You have the right to delete your Account, either directly or through a request made to one of our employees or affiliates.

## **3. Eligibility**

- 3.1 Accounts must only be created for persons that are at least 13 years old, provided that if an Account is created for a person under the legal age to form a binding contract in your jurisdiction, then the Organisation creating the account:
- (a) is considered the Account under these Terms, and they are responsible for any and all activities; and
  - (b) represent that they have reviewed and agreed to these Terms including the Privacy Policy.
- 3.2 If you are under age 13, you may not in any circumstances use the Services.
- 3.3 We may, in our sole discretion, refuse to offer the Services to any person or entity and change our eligibility criteria at any time. Your right to access the Services is revoked where your use of the Services is prohibited by, or if offering, selling or providing the Services conflicts with, any law, rule or regulation applicable to you.

## **4. No Medical advice**

THE SERVICES ARE PROVIDED FOR INFORMATION PURPOSES ONLY TO SUPPORT AND ENHANCE YOUR EXPERIENCE USING VALD PRODUCTS. THE SERVICES, AND ANY CONTENT DISPLAYED VIA SERVICES, WHETHER PROVIDED BY VALD OR A THIRD PARTY, DO NOT PROVIDE MEDICAL ADVICE AND ARE NOT INTENDED TO BE A SUBSTITUTE FOR (I) ADVICE FROM A DOCTOR OR OTHER HEALTHCARE PROFESSIONAL, OR ANY DIAGNOSIS OR TREATMENT OR (II) A VISIT, CALL OR OTHER CONSULTATION WITH A HEALTHCARE PROFESSIONAL. THE SERVICES DO NOT AND ARE NOT INTENDED TO TREAT OR PREVENT ANY MEDICAL CONDITION. USE OF THE SERVICE, OR COMMUNICATION WITH VALD BY ANY MEANS, DOES NOT CREATE ANY DOCTOR PATIENT RELATIONSHIP. IF YOU HAVE HEALTH RELATED QUESTIONS, THEN PLEASE CONTACT YOUR HEALTHCARE PROFESSIONAL. YOU SHOULD NEVER DISREGARD MEDICAL ADVICE OR DELAY SEEKING MEDICAL ADVICE BECAUSE OF ANY CONTENT PRESENTED ON THE SERVICES, AND YOU SHOULD NOT USE THE SERVICES OR ANY CONTENT ON THE SERVICES FOR DIAGNOSING OR TREATING A HEALTH PROBLEM.

## 5. Intellectual Property

- 5.1 VALD's software, text, graphics, images, video, audio, data and other material are made available to you through the Services (collectively referred to as the '**Content**'). You may use the Services, including its Content, only for the purpose of using the Services and in any other manner expressly permitted under this Agreement.
- 5.2 All intellectual property rights (including, without limitation, copyright, trademarks, patents, design rights and all other forms of intellectual property rights existing in the world) in the Services, including all Content, are owned by or licensed to VALD. Nothing in this Agreement constitutes a transfer of any intellectual property rights to you. You must retain all copyright and other proprietary notices contained in the original Content on any copy you make of the Content.
- 5.3 Subject to these Terms, VALD grants you a non-exclusive, non-transferable, non-sublicensable limited licence to access and use (i.e. to download and display locally) the Content and the software and applications made available through the Services (including the Apps) solely for the purposes of using the Services. You shall not sell, licence, rent, otherwise use or exploit any Content or the Services for any public or commercial use, or in any way that violates any third party right. Specifically, the following activities are prohibited:
- (a) collecting usernames and/or email addresses of other users by electronic or other means for the purpose of sending unsolicited email or other communications;
  - (b) any use of the Services, which in our sole judgment, degrades the reliability, speed, or operation of the Services for you or any other person, or any underlying hardware or software thereof; and
  - (c) use of web scraping, web harvesting, or web data extraction methods from VALD even if the Account owner gives permission.
- 5.4 If you violate any part of these Terms, your permission to access and/or use the Content and Services automatically terminates and you must immediately destroy any copies you have made of the Content.
- 5.5 The Service may include access to links to, and content and data from, third-party websites ('**Third Party Services**'). These Third Party Services are provided solely as a convenience to you, and are not an endorsement by us of the content on such Third Party Services. Those Third Party Services may be subject to separate legal terms and conditions between you and third parties. VALD does not accept any liability for the Third Party Services.
- 5.6 Use of the DASH and *QuickDASH*, including the use of the translated versions of the DASH and *QuickDASH* on VALD's website, is free of charge to all clinicians using them only for treatment or assessment of a patient, to researchers using them only for non-commercially related research and to other not-for-profit users.

## 6. Access and Availability

VALD reserves the right to modify, change, discontinue or disable the Services or any part of them (on a permanent or temporary basis) at any time. VALD will, where reasonably practicable and possible, endeavour to provide you or your Organisation with prior notice of any material modifications, discontinuations or disabling that materially impact the overall nature or functionality of the Services by posting such notices on our website: <https://vald.com/terms-and-conditions>. However, you accept that it may not always be possible to provide such prior notice.

## 7. Suspension and termination

- 7.1 We may immediately suspend or terminate your Account without notice to you if:

- (a) you materially breach these Terms;
- (b) you use the Services for any unlawful purpose; or
- (c) your use of the Services is, in our reasonable opinion, likely to infringe the rights of any other person.

7.2 In the circumstances described in clause 7.1 above, VALD may (at its option, and without limiting the remedies available to it in any way) terminate this agreement with you and/or bar you from accessing the Services on a permanent or temporary basis. If this occurs, you must not access or use the Services during the period of your suspension.

## **8. Appropriate Use**

8.1 You must not use the Services to:

- (a) upload, transmit or send any material that is, or may be reasonably considered likely to be:
  - (i) false, misleading, deceptive, fraudulent, abusive, harassing, threatening, defamatory, offensive, humiliating, vulgar, obscene, pornographic, racist, discriminatory, invasive of another's privacy, criminal or illegal, inciting another person to do any of those things;
  - (ii) an infringement of the intellectual property rights of another party;
  - (iii) a disturbance to or damaging to the Services, the Apps or its Content; or
  - (iv) otherwise breaches these Terms;
- (b) upload, transmit or send any advertising, promotional materials or similar materials without the express written consent of VALD;
- (c) impersonate any person or entity or otherwise misrepresent your affiliation with a person or entity;
- (d) collect any available personal information about an individual other than yourself; or
- (e) upload personal information about an individual other than yourself.

8.2 Without limiting the other rights available to VALD, VALD may remove any material from the Services, the Apps or the Content if VALD reasonably believes that there is a risk of a breach of this clause 8.1.

8.3 You must not violate or attempt to violate the security of, or otherwise hack into or attempt to hack into, the Services, the Apps, VALD's computer systems or the computer systems of other users Services and the Apps. In this clause 'hack' means any unauthorised access, malicious damage and/or interference and includes, without limitation, spamming, propagating viruses, worms or other types of malicious programs, deliberate attempts to overload a computer system, broadcast attacks or any other method designed to damage or interfere with the operation of a computer system or website or app.

8.4 Without limiting clauses 8.1 to 8.3 above, you must comply with all applicable laws, regulations, codes or standards when using the Services.

## **9. Data Collection and Privacy and Security**

9.1 VALD owns data that is collected using the Services and Apps upon anonymisation or deidentification of that data. VALD may use that data for any purpose in accordance with

VALD's Privacy Policy. You agree that you will obtain any necessary consents or approvals (including from the data subject) for VALD's use of the data as set out in these Terms (including the Privacy Policy). For example, VALD may use the data to generate reports for certain demographics (e.g. age, nationality or case type).

- 9.2 VALD is committed to protecting the privacy of everyone who uses the Services and demonstrates its firm commitment to privacy through its Privacy Policy. Any personal information collected by VALD through the Services will be handled in accordance with the Terms and VALD's Privacy Policy.
- 9.3 Please carefully read VALD's Privacy Policy at <https://vald.com/privacy-policy/> to learn how we protect and use information that we gather through the Services.

## **10. Warranty Disclaimer**

- 10.1 OTHER THAN AS EXPRESSLY STATED IN THIS AGREEMENT OR AS REQUIRED BY LAW, THE SERVICE IS PROVIDED "AS IS" AND VALD DOES NOT, AND ITS DIRECTORS, EMPLOYEES, AGENTS, SUPPLIERS OR LICENSORS DO NOT, MAKE ANY SPECIFIC COMMITMENTS OR ANY EXPRESS OR IMPLIED WARRANTIES ABOUT THE SERVICE.
- 10.2 NEITHER VALD, NOR VALD'S AFFILIATES OR PARTNERS, SHALL BE SUBJECT TO LIABILITY FOR THE TRUTH, ACCURACY, OR COMPLETENESS OF ANY INFORMATION CONVEYED TO USERS OF THE SERVICES OR FOR ERRORS, MISTAKES OR OMISSIONS THEREIN OR FOR ANY DELAY OR INTERRUPTIONS OF THE DATA OR INFORMATION STREAM FROM WHATEVER CAUSE. FURTHER, VALD MAKES NO WARRANTY THAT THE SERVICES WILL BE AVAILABLE ERROR FREE OR THAT THE SERVICES OR THE CONTENT ARE FREE OF COMPUTER VIRUSES OR SIMILAR CONTAMINATION OR DESTRUCTIVE FEATURES. IF YOUR USE OF THE SERVICES OR THE CONTENT RESULTS IN THE NEED FOR SERVICING OR REPLACING EQUIPMENT OR DATA, VALD SHALL NOT BE RESPONSIBLE FOR THOSE COSTS. YOU ACKNOWLEDGE AND AGREE THAT YOUR USE OF THE SERVICES AND THE CONTENT IS AT YOUR OWN RISK.
- 10.3 VALD MAY, FROM TIME TO TIME AND WITHOUT NOTICE, CHANGE OR ADD TO THE SERVICES (INCLUDING THESE TERMS) OR THE INFORMATION, PRODUCTS OR SERVICES DESCRIBED IN IT. HOWEVER, WE DO NOT UNDERTAKE TO KEEP THE WEBSITE UPDATED. WE ARE NOT LIABLE TO YOU OR ANYONE ELSE IF ERRORS OCCUR IN THE INFORMATION ON THE WEBSITE OR IF THAT INFORMATION IS NOT UP-TO-DATE.

## **11. Indemnity**

YOU AGREE TO DEFEND, INDEMNIFY, AND HOLD VALD AND VALD'S SUBSIDIARIES, AFFILIATES, DIRECTORS, OFFICERS, AGENTS, SUPPLIERS, EMPLOYEES, PARTNERS AND LICENSORS HARMLESS FROM AND AGAINST ANY CLAIMS, ACTIONS OR DEMANDS, INCLUDING WITHOUT LIMITATION REASONABLE LEGAL AND ACCOUNTING FEES, ARISING OR RESULTING FROM MATERIAL THAT YOU UPLOAD TO THE SERVICE, YOUR BREACH OF THESE TERMS, YOUR MISUSE OF THE CONTENT OR THE SERVICES, OR YOUR VIOLATION OF ANY LAW. WE SHALL PROVIDE NOTICE TO YOU OF ANY SUCH CLAIM, SUIT OR PROCEEDING. WE RESERVE THE RIGHT TO ASSUME THE EXCLUSIVE DEFENCE AND CONTROL OF ANY MATTER WHICH IS SUBJECT TO THIS SECTION. IN SUCH CASE, YOU AGREE TO COOPERATE WITH ANY REASONABLE REQUESTS ASSISTING OUR DEFENCE OF SUCH MATTER.

## **12. Limitation of Liability**

- 12.1 IN NO EVENT WILL VALD BE LIABLE TO YOU FOR ANY DAMAGES (INCLUDING, WITHOUT LIMITATION, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES, LOST PROFITS, OR DAMAGES RESULTING FROM LOST DATA OR BUSINESS INTERRUPTION) RESULTING FROM THE USE OR INABILITY TO USE THE SERVICES, THE APPS OR THE CONTENT, WHETHER BASED ON WARRANTY, CONTRACT, TORT (INCLUDING NEGLIGENCE), OR ANY OTHER LEGAL

THEORY, IN EXCESS OF USD 100 DOLLARS, EVEN IF VALD HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

- 12.2 SOME JURISDICTIONS DO NOT ALLOW EXCLUSION OF IMPLIED WARRANTIES OR LIMITATION OF LIABILITY FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THE ABOVE LIMITATIONS OR EXCLUSIONS MAY NOT APPLY TO YOU. IN SUCH JURISDICTIONS, VALD'S LIABILITY SHALL BE LIMITED TO THE GREATEST EXTENT PERMITTED BY LAW.

### 13. Termination

Unless otherwise prohibited by law, and without prejudice to VALD's other rights or remedies, VALD shall have the right to immediately terminate any of the Services, in our sole discretion at any time. Upon termination, all licences granted to you hereunder shall terminate automatically, your right to use the Services shall cease and your Accounts, as defined above, will no longer be available to you through the Services.

### 14. General

- 14.1 **Assignment.** These Terms, and any rights and licenses granted hereunder, may not be transferred or assigned by you, but may be assigned by VALD without restriction. This agreement will inure to the benefit of our successors and permitted assigns.
- 14.2 **Governing Law; Venue.** The laws applicable in the State of Queensland, Australia, govern this agreement. The parties submit to the non-exclusive jurisdiction of the courts of the State of Queensland, Australia, and any courts competent to hear appeals from those courts.
- 14.3 **Severability.** If any provision of these Terms is found to be invalid by any court having competent jurisdiction, the invalidity of such provision shall not affect the validity of the remaining provisions of these Terms, which shall remain in full force and effect.
- 14.4 **Non-waiver.** Failure by VALD to act on or enforce any provision of these Terms shall not be construed as a waiver of that provision or any other provision in these Terms. No waiver shall be effective against us unless made in writing, and no such waiver shall be construed as a waiver in any other or subsequent instance.
- 14.5 **Entire Agreement.** Except as expressly agreed by us and you, these Terms, the Privacy Policy and any other terms presented to you on or before you create your Account constitute the entire agreement between you and VALD with respect to the subject matter, and supersede all previous or contemporaneous agreements, whether written or oral, between the parties with respect to the subject matter.
- 14.6 **Headings.** The section headings are provided merely for convenience and shall not be given any legal import.
- 14.7 **Survival.** All clauses of these Terms that, by their nature, should survive termination will survive termination including without limitation, the clauses entitled Indemnity, Warranty Disclaimer and Limitation of Liability, and General (this clause).

### 15. Contact

If you have any questions regarding the Services, please contact VALD via [support@vald.com](mailto:support@vald.com). Otherwise, our mailing address is VALD, PO Box 3208, Newstead QLD 4006 Australia.