

Paediq Terms of Use

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Paed-IQ Terms of Use

Last Updated: 3 April 2020

Thank you for your interest in the Paed-IQ maternity website, collectively referred to as the “Service”. The Service is provided to you by Paed-IQ (Paed-IQ), with its principal offices in Cape Town, South Africa. Please read the following terms and conditions carefully.

By clicking “I Accept” or by using the Service, you acknowledge that you have read, understood, and agree to be bound by the following terms and conditions, and the Privacy Policy (available at <https://paediq.com/> and incorporated herein by reference), together, the “Terms”. If you are not eligible or do not agree to any of the Terms or the Privacy Policy, then you may not use the Service.

Paed-IQ may revise and update the Terms at any time. Your continued usage of the Service will mean you accept these changes.

You acknowledge and agree that, as provided in further detail in these terms:

- a. The Service is licensed, not sold to you, and that you may use the Service only as set forth in these Terms;
- b. The use of the Service may be subject to separate third-party terms of service and fees, including without limitation the terms of service and data, SMS, MMS, and other fees of your mobile network operator (the “Carrier”), which are your sole responsibility;
- c. You consent to the collection and use of your personal data and information about your location in accordance with the Paed-IQ Privacy Policy;
- d. Access to certain features of the Service may require access to information about the location of your device, such as GPS coordinates;
- e. The Service is provided “as is” without warranties of any kind and Paed-IQ’s liability to you is limited; and
- f. If you are using the Service on an iOS-based device, you acknowledge and agree to the “Notice Regarding Apple” in 19 below.

1. Children's Privacy

Paed-IQ is committed to protecting the privacy of children. You should be aware that the Service is not intended or designed to attract children under the age of 13. Paed-IQ does not collect personally identifiable information from any person we know is a child under the age of 13.

2. Eligibility

You must be at least 16 years of age to use the Service. By agreeing to these Terms, you represent and warrant to us that: (a) you are at least 16 years of age; (b) you have not previously been suspended or removed from the Service; and (c) your registration and your use of the Service is in compliance with all applicable laws and regulations. If you are using the Service on behalf of an entity, organization, or

company, you represent and warrant that you have the authority to bind that organization to these Terms and you agree to be bound by these Terms on behalf of that organization.

3. Accounts and Registration for Medical Aid users

To access certain features of the Service, you must register through your service provider account details. When you register for an account, you will be required to provide certain information about yourself, such as your email address or other contact information. You represent and warrant that the information you provide is accurate and that you will always keep it accurate and up to date. When you register, you will be asked to provide a password. You are solely responsible for maintaining the confidentiality of your account and password, and you accept responsibility for all activities that occur under your account.

Your service provider may enable you to “verify” your account. Your service provider may grant users with verified accounts access to certain functions and features of the Service, including the ability to view your education and/or job preferences.

Your service provider may verify your account by reviewing the validity of a personal credential, such as a payment card or mobile phone number. If you provide your service provider or its third party verification service provider with your mobile phone number, you expressly authorize your service provider, its third party verification service provider, or their agents to send to you one or more text message numeric codes for the purpose of enabling and maintaining the job recruitment feature. Your standard text messaging rates will apply. If appropriate, by providing your service provider with credit card or debit card information, you expressly authorize your service provider or their agents to contact your card issuer to confirm that the card number you provide is currently valid. Your service provider does not collect or store credential information you provide, but third-party verification service providers, or their agents may retain credential information for compliance or other purposes in the course of providing verification services for your service provider. By providing credential information to your service provider, you agree that your service provider and/or third-party verification service providers, or their agents may retain credential information and provide such information, as well as your user login ID or email address, to government authorities, law enforcement agencies, regulatory agencies and other duly authorized parties as may be required by or permitted under applicable laws.

Account verification may expire and renewal is required at intervals determined by your service provider, and subject to change at your service provider sole discretion. your service provider reserves the right to revoke account verification at its own discretion, for any or no reason.

4. Prohibited Conduct

By using the Service, you agree not to:

- i. use the Service for any illegal purpose or in violation of any local, state, national, or international law;
- ii. violate, or encourage others to violate, any right of a third party, including by infringing or misappropriating any third-party intellectual property right or violating any third party's right to privacy;
- iii. interfere with security-related features of the Service, including by: (a) disabling or circumventing features that prevent or limit use or copying of any content; or (b) reverse engineering or otherwise attempting to discover the source code of any portion of the Service except to the extent that the activity is expressly permitted by applicable law;
- iv. interfere with the operation of the Service or any user's enjoyment of the Service, including by: (a) uploading or otherwise disseminating any virus, adware, spyware, worm, or other malicious code; (b) making any unsolicited offer or advertisement to another user of the Service; (c) attempting to collect personal information about another user or third party without consent; or (d) interfering with or disrupting any network, equipment, or server connected to or used to provide the Service, or violating any regulation, policy, or procedure of any such network, equipment, or server;
- v. perform any fraudulent activity in connection with your obtaining or using the Services, including impersonating any person or entity, claiming a false affiliation, accessing any other account without permission, or falsifying your age or date of birth;
- vi. attempt to do any of the acts described in this Section or assist or permit any person in engaging in any of the acts described in this Section.

5. Termination of Use. Discontinuation and modification of the Service.

If you violate any provision of these Terms, your permission from Paed-IQ to use the Service, will terminate automatically. In addition, Paed-IQ may in its sole discretion terminate your account or suspend or terminate your access to the Service at any time for any reason or no reason, with or without notice. Paed-IQ also reserves the right to modify or discontinue the Service or features of the Service at any time, temporarily or permanently, without notice to you. Paed-IQ will have no liability whatsoever on account of any change to the Service or any suspension or termination of your access to or use of the Service. Without limiting the foregoing, you understand and agree that in any termination or suspension of your account or the Service, you will not have access to any data or Content recorded using the Service or otherwise contained in the Service, and Paed-IQ will have no responsibility to provide you access to such data or Content. You may terminate your Service account at any time by contacting customer service at info@paediq.com.

6. Privacy Policy; Additional Terms.

a. Privacy Policy

Please read the Privacy Policy at <https://paediq.com/> carefully for information relating to the collection, use, storage and disclosure of your personal information. The Privacy Policy is incorporated by this reference into, and made a part of, these Terms.

b. Additional Terms

Your use of the Service is subject to all additional terms, policies, rules, or guidelines applicable to the Service (the “Additional Terms”), such as end-user license agreements for any downloadable software applications, or rules that apply to any of the Content on the Service, subject to **Section 8** below. All Additional Terms are incorporated by this reference into and made a part of these Terms.

c. Third Party Software

If appropriate, the software you download comprises a package of components, including certain commercial third-party software (“Third Party Software”) provided under separate license terms (the “Third Party Terms”), as described in more detail at <https://paediq.com/> (for iOS) and <https://paediq.com/> (for Android). Your use of the Third Party Software in conjunction with the Service in a manner consistent with these Terms is permitted, however, you may have broader rights under the applicable Third Party Terms and nothing in these Terms is intended to impose further restrictions on your use of the Third Party Software.

7. Modification of these Terms

Paed-IQ reserves the right, at its own discretion, to change these Terms on a going-forward basis at any time. Please check these Terms periodically for changes. Modified Terms of Use are effective upon its publication. If Paed-IQ makes material changes to the Terms, Paed-IQ will attempt to provide you reasonable notice before such changes become effective. By continuing to use the Service, you agree to be bound by the updated, amended, or modified Terms. If you do not agree to be bound by the modified Terms, you must immediately cease your use of the Service. Disputes arising under these Terms will be resolved in accordance with the version of these Terms that was in effect at the time the dispute arose.

8. Ownership; Proprietary Rights

The Service is owned and operated by Paed-IQ. The visual interfaces, graphics, design, compilation, information, data, computer code (including source code or object code), products, software, services, and all other elements of the Service (“Materials”) provided by Paed-IQ are protected by intellectual property and other laws. All Materials contained in the Service are the property of Paed-IQ or our third-party licensors. Except as expressly authorized by Paed-IQ, you may not make use of the Materials. Paed-IQ reserves all rights to the Materials not granted expressly in these Terms.

9. Feedback; Beta Service

If you choose to provide input and suggestions regarding problems with or proposed modifications or improvements to the Service (“Feedback.”), then you

hereby grant Paed-IQ an unrestricted, perpetual, irrevocable, non-exclusive, fully-paid, royalty-free right to exploit such Feedback in any manner and for any purpose.

Paed-IQ may offer “beta” versions or features of the Service (each, a “Beta Service”). Paed-IQ will determine, at its sole discretion, the availability, duration (the “Trial Period”), features, and components of each Beta Service. Any beta service is provided “as is” without any warranties. Notwithstanding anything to the contrary in these Terms, in no event will Paed-IQ be liable to you or any third party for any damages or liability related to, arising out of, or caused by any Beta Service and/or any modification, suspension, or termination thereof. If Paed-IQ permits you to use a Beta Service, you agree to provide Paed-IQ Feedback and respond to Paed-IQ’s questions or other inquiries regarding your use of the Beta Service, if requested and as applicable. Paed-IQ at its sole discretion shall determine whether or not to continue to offer any Beta Service and may cease offering any Beta Service at any time. Upon completion of a Trial Period, you may lose access to the applicable Beta Service, unless or until the features of the Beta Service are incorporated into the Service. Any production candidate or non-production version of the Service will be considered a Beta Service. Except as expressly provided in this Section, these Terms govern your use of the Beta Service as part of the Service.

10. Indemnity

You are responsible for your use of the Service. You will defend and indemnify Paed-IQ and its officers, directors, employees, consultants, affiliates, subsidiaries and agents (together, the “Paed-IQ Entities”) from and against every claim, liability, damage, loss, and expense, including reasonable attorneys’ fees and costs, arising out of or in any way connected with: (a) your access to, use of, or alleged use of, the Service; (b) your violation of any portion of these Terms, any representation, warranty, or agreement referenced in these Terms, or any applicable law or regulation; (c) your violation of any third-party right, including any intellectual property right or publicity, confidentiality, other property, or privacy, right; or (d) any dispute or issue between you and any third party. Paed-IQ reserves the right, at its own expense, to assume the exclusive defence and control of any matter otherwise subject to indemnification by you (without limiting your indemnification obligations with respect to that matter), and in that case, you agree to cooperate with the Paed-IQ defence of that claim.

11. Disclaimers; No Warranties

The Service, including all Materials and Content, available through the Service are provided “as is” and on an “as available” basis, without warranty or condition of any kind, either express or implied. The Paed-IQ entities disclaim all warranties of any kind, whether express or implied, relating to the Service, including all Materials and Content, available through the Service, including: (a) any implied warranty of merchantability, fitness for a particular purpose, title, or non-infringement; and (b) any warranty arising out of course of dealing, usage, or trade. The Paed-IQ entities do not warrant that the Service or any portion of the Service, Materials or Content offered through the Service, will be uninterrupted, secure, or free of errors, viruses, or other harmful components, and do not warrant that any of those issues will be corrected. No advice or information, whether oral or written, obtained by you

from the Service, Materials or Content available through the Service will create any warranty regarding any of the Paed-IQ entities or the Service that is not expressly stated in these Terms. You assume all risk for any damage that may result from your use of or access to the Service, Materials or Content available through the Service. You understand and agree that you use the Service at your own discretion and risk, and that you are solely responsible for any personal injury, death, damage to your property (including your computer system or mobile device used in connection with the Service) or third party property, or the loss of data that results from your use of or inability to use the Service. Some jurisdictions may prohibit a disclaimer of warranties and you may have other rights that vary from jurisdiction to jurisdiction.

12. Limitation of Liability

In no event will the Paed-IQ entities be liable to you for any indirect, incidental, special, consequential or punitive damages (including damages for loss of profits, goodwill, or any other intangible loss) arising out of or relating to your access to or use of, or your inability to access or use, the Service, Materials or Content on the Service, whether based on warranty, contract, tort (including negligence), statute, or any other legal theory, and whether or not any Paed-IQ entity has been informed of the possibility of damage. Except as provided in Section 16.d(iii), the aggregate liability of the Paed-IQ entities to you for all claims arising out of or relating to the use of or any inability to use any portion of the Service or otherwise under these terms, whether in contract, tort, or otherwise, is limited to ZAR100. Some jurisdictions do not allow the exclusion or limitation of liability for consequential or incidental damages. accordingly, the above limitation may not apply to you. Each provision of these terms that provides for a limitation of liability, disclaimer of warranties, or exclusion of damages is intended to and does allocate the risks between the parties under these terms. This allocation is an essential element of the basis of the bargain between the parties. Each of these provisions is severable and independent of all other provisions of these terms. The limitations in this Section will apply even if any limited remedy fails of its essential purpose.

13. Governing Law

These Terms are governed by the laws of South Africa without regard to conflict of law principles. If a lawsuit or court proceeding is permitted under these Terms, then you and Paed-IQ agree to submit to the personal and exclusive jurisdiction of the South African courts located within Cape Town, for the purpose of litigating any dispute. Paed-IQ makes no representation that the Service, Materials or Content included in the Service are appropriate or available for use in your location.

14. General

You agree that the Service shall be deemed a passive mobile application and website that does not give rise to personal jurisdiction over Paed-IQ, either specific or general, in jurisdictions other than South Africa. These Terms and any other

agreements expressly incorporated by reference into these Terms are the entire and exclusive understanding and agreement between you and Paed-IQ regarding your use of the Service. Except as expressly permitted above, these Terms may be amended only by a written agreement signed by authorized representatives of all parties to these Terms. You may not assign or transfer these Terms or your rights under these Terms, in whole or in part, by operation of law or otherwise, without our prior written consent. Paed-IQ may assign these Terms at any time without notice or consent. The failure to require performance of any provision will not affect Paed-IQ right's to require performance at any other time after that, nor will a waiver by Paed-IQ of any breach or default of these Terms, or any provision of these Terms, be a waiver of any subsequent breach or default or a waiver of the provision itself. Use of section headers in these Terms is for convenience only and will not have any impact on the interpretation of any provision. If any part of these Terms is held to be invalid or unenforceable, the unenforceable part will be given effect to the greatest extent possible, and the remaining parts will remain in full force and effect. Upon termination of these Terms, Sections 1 through 19, along with the Privacy Policy and any other accompanying agreements, will survive.

15. Dispute Resolution and Arbitration

a. Generally

In the interest of resolving disputes between you and Paed-IQ in the most expedient and cost-effective manner, you and Paed-IQ agree that every dispute arising in connection with these terms will be resolved by binding arbitration. Arbitration is less formal than a lawsuit in court. Arbitration uses a neutral arbitrator instead of a judge or jury, may allow for more limited discovery than in court, and can be subject to very limited review by courts. Arbitrators can award the same damages and relief that a court can award. This agreement to arbitrate disputes includes all claims arising out of or relating to any aspect of these terms, whether based in contract, tort, statute, fraud, misrepresentation, or any other legal theory, and regardless of whether a claim arises during or after the termination of these terms. You understand and agree that, by entering into these terms, you and Paed-IQ are each waiving the right to a trial by jury or to participate in a class action.

b. Exceptions

Despite the provisions of Section 15.a, nothing in these Terms will be deemed to waive, preclude, or otherwise limit the right of either party to: (a) bring an individual action in small claims court; (b) pursue an enforcement action through the applicable federal, state, or local agency if that action is available; (c) seek injunctive relief in a court of law; or (d) to file suit in a court of law to address an intellectual property infringement claim.

c. Arbitrator

Any arbitration between you and Paed-IQ will be settled under the South African Arbitration Act 42 of 1965, or The International Arbitration Act of 2017 for

international arbitration. The arbitration will be governed by a sole arbitrator or a suitably qualified arbitrator put forward by either the Arbitration Foundation of Southern Africa (AFSA) or the Association of Arbitrators (South Africa) (AASA).

d. Notice; Process

A party who intends to seek arbitration must first send a written notice of the dispute to the other party by certified mail or, if such other party has not provided a current physical address, then by electronic mail ("Notice"). Paed-IQ's address for Notice is: Unit A2, N1 City Mews, 5 Manus Gerber Street, Goodwood, Cape Town, 7460, South Africa. The Notice must: (a) describe the nature and basis of the claim or dispute; and (b) set forth the specific relief sought ("Demand"). The parties will make good faith efforts to resolve the claim directly, but if the parties do not reach an agreement to do so within 30 days after the Notice is received, you or Paed-IQ may commence an arbitration proceeding. During the arbitration, the amount of any settlement offer made by you or Paed-IQ must not be disclosed to the arbitrator until after the arbitrator makes a final decision and award, if any. If the dispute is finally resolved through arbitration in your favour, Paed-IQ will pay you the highest of the following: (i) the amount awarded by the arbitrator, if any; (ii) the last written settlement amount offered by Paed-IQ in settlement of the dispute prior to the arbitrator's award; or (iii) ZAR100.

e. Fees

If you commence arbitration in accordance with these Terms, Paed-IQ will reimburse you for your payment of the filing fee, unless your claim is for more than ZAR10,000, in which case the payment of any fees will be decided by the arbitration Rules. Any arbitration hearing will take place at a location to be agreed upon in Cape Town, South Africa, but if the claim is for ZAR10,000 or less, you may choose whether the arbitration will be conducted: (a) solely on the basis of documents submitted to the arbitrator; (b) through a non-appearance based telephone hearing; or (c) by an in-person hearing as established by the arbitration Rules in the country (or parish) of your billing address. If the arbitrator finds that either the substance of your claim or the relief sought in the demand is frivolous or brought for an improper purpose, then the payment of all fees will be governed by the arbitration Rules. In that case, you agree to reimburse Paed-IQ for all monies previously disbursed by it that are otherwise your obligation to pay under the arbitration Rules. Regardless of the manner in which the arbitration is conducted, the arbitrator must issue a reasoned written decision sufficient to explain the essential findings and conclusions on which the decision and award, if any, are based. The arbitrator may make rulings and resolve disputes as to the payment and reimbursement of fees or expenses at any time during the proceeding and upon request from either party made within 14 days of the arbitrator's ruling on the merits.

f. No Class Actions

You and Paed-IQ agree that each Party may bring claims against the other only in your or its individual capacity and not as a plaintiff or class member in any purported class or representative proceeding. Further, unless both you and Paed-IQ

agree otherwise, the arbitrator may not consolidate more than one person's claims and may not otherwise preside over any form of a representative or class proceeding.

g. Modifications of This Arbitration Provision

If Paed-IQ makes any future change to this arbitration provision, other than a change to Paed-IQ's address for Notice, you may reject the change by sending Paed-IQ written notice within 30 days of the change to Paed-IQ's address for Notice, in which case your account with Paed-IQ will be immediately terminated and this arbitration provision, as in effect immediately prior to the changes you rejected will survive.

h. Enforceability

If Section 15.f is found to be unenforceable or if the entirety of this Section 15 is found to be unenforceable, then the entirety of this Section 15 (other than, in the latter case, Section 15.f) will be null and void and, in that case, the parties agree that the exclusive jurisdiction and venue described in Section 13 will govern any action arising out of or related to these Terms.

16. Consent to Electronic Communications

By using the Service, you consent to receiving certain electronic communications from Paed-IQ as further described in the Privacy Policy. Please read the Privacy Policy to learn more about the Paed-IQ electronic communications practices. You agree that any notices, agreements, disclosures, or other communications that Paed-IQ send to you electronically will satisfy any legal communication requirements, including that those communications be in writing.

17. Contact Information

The Service is offered by Paed-IQ and its affiliated companies, located at Unit A2, N1 City Mews, 5 Manus Gerber Street, Goodwood, Cape Town, 7460, South Africa. You may contact us by sending correspondence to that address or by emailing Paed-IQ at info@paediq.com.

18. Notice Regarding Apple

If you are using the Service on an iOS device, the terms of this Section 18 apply. You acknowledge that these Terms are between you and Paed-IQ only, not with Apple, and Apple is not responsible for the Service, Materials or the Content. Apple has no obligation to furnish any maintenance or support services with respect to the Service. If the Service fails to conform to any applicable warranty, you may

notify Apple and Apple will refund any applicable purchase price for the mobile application to you; and, to the maximum extent permitted by applicable law, Apple has no other warranty obligation with respect to the Service. Apple is not responsible for addressing any claim by you or any third party relating to the Service or your possession or use of the Service, including: (a) product liability claims; (b) any claim that the Service fails to conform to any applicable legal or regulatory requirement; and (c) claims arising under consumer protection or similar legislation. Apple is not responsible for the investigation, defence, settlement or discharge of any third-party claim that the Service or your possession and use of the mobile application infringe that third-party's intellectual property rights. You agree to comply with any applicable third-party terms when using the Service. Apple and Apple's subsidiaries are third-party beneficiaries of these Terms, and upon your acceptance of these Terms, Apple will have the right (and will be deemed to have accepted the right) to enforce these Terms against you. You hereby represent and warrant that: (i) you are not located in a country that is subject to a U.S. Government embargo, or that has been designated by the U.S. Government as a "terrorist supporting" country; and (ii) you are not listed on any U.S. Government list of prohibited or restricted parties.