

## Web Site Terms and Privacy Statement

By logging into your account, you acknowledge your agreement with these terms and conditions. You are also agreeing to accept a non-exclusive, non-assignable right and license to use Taleval.com & OnlineDiscoveryPro.com. The use of our websites requires the payment of an annual hosting/support fee. Failure to pay the annual fee will result in termination of the right to access. Inactive account data is saved for 3 months after the renewal date has expired. Inactive clients are responsible for printing and/or saving their data through the software prior to the account expiration date. After 3 months your data will be deleted from our servers and no backups will be kept. Backups are performed nightly and rotated every 7 days. Weekly backups are kept for 8 weeks. Monthly backups are kept for 3 months and no backups are saved beyond 3 months.

**Term; No Automatic Renewals.** The term of the Agreement shall be for (1) year from the date of the P.O.

### Security & Privacy Policies

AMERICA'S SOFTWARE CORPORATION will not license, disclose, sell or otherwise share information gathered on or through Taleval.com & OnlineDiscoveryPro.com except by court order. The Customer owns its data.

### Information Collection and Use

While using our Site, we may ask you to provide us with certain personally identifiable information that can be used to contact or identify you. Personally identifiable information may include, but is not limited to your name and phone number. We will never sell your data under any circumstance or provide it to any third parties.

### Legal Requirements

Use and disclosure of student and patient records ("personal information") is subject to United States Federal and state regulation. Each Client and each User agree to comply at all times with their respective obligations and regulations. While AMERICA'S SOFTWARE CORPORATION provides an infrastructure for storage, retrieval and distribution of Client information, making determinations on disclosure, sharing and distribution of information is solely the responsibility of Clients and Users of Taleval or Discovery Pro.

### Software Access

You agree not to reverse engineer, decompile or otherwise attempt to uncover the source code. America's Software Corporation reserves all rights to the Software. Except as expressly provided for in this section, this Agreement does not grant you any rights to the Software other than to use and all other rights are reserved by America's Software Corporation. America's Software Corporation provides this Software "as is" without warranty of any kind either express or implied, including but not limited to the implied warranties or conditions of merchantability or fitness for a particular purpose.

### Records Access

Access to records will be strictly controlled by user names and passwords issued to individual Users. You are responsible for maintaining the confidentiality of your user name and password, and you will be responsible for all uses of your User Name and password, whether or not authorized by you. Clients and User shall not hold AMERICA'S SOFTWARE CORPORATION responsible for loss or damage arising from unauthorized use of Users' password and/or authentication device, unless such unauthorized use is solely attributable to the gross negligence or willful misconduct of AMERICA'S SOFTWARE CORPORATION.

**Browsers, Equipment and Accessibility** We support access to student personal information to parents and students for review and correction. Clients and Users are solely responsible for obtaining and maintaining equipment and software, including without limitation operating system and browser software, that conforms to America's Software Corporation's specifications in effect, as revised from time to time, in order to connect to, communicate with and use the Taleval.com & OnlineDiscoveryPro.com website.

### Force Majeure

AMERICA'S SOFTWARE CORPORATION will make every effort to keep its Web site (Taleval.com & OnlineDiscoveryPro.com) and Services operational and keep your data safe from loss. However, certain technical difficulties and other factors outside of its control may, from time to time, result in temporary service interruptions and/or data loss. You agree not to hold AMERICA'S SOFTWARE CORPORATION liable for any of the consequences of such interruptions or loss.

**Cookies**

We use a feature on your Internet browser called a cookie. Cookies are small files that your Web browser places on your computer's hard drive. We use cookies to let us identify you. The cookie will not allow access to any secured areas of our site; these will always require a password. You can instruct your browser to refuse all cookies or to indicate when a cookie is being sent.

**Log Files**

We use and log information for security purposes. All such collected information will be available for review by Client, to enable Client to track usage by the various Users.

**Misuse and Termination**

Misuse of AMERICA'S SOFTWARE CORPORATION'S hosted services such as by hacking, spamming, solicitations whether commercial or non-commercial, or transmission of information that is harmful, obscene, harassing, libelous or illegal is strictly forbidden. Any such activity, and any other violation of these Terms and Conditions and Privacy Statement by a Client or User may, in AMERICA'S SOFTWARE CORPORATION'S discretion, result in termination of hosted services by AMERICA'S SOFTWARE CORPORATION to the Client or User without notice. Finally, failure of a Client to pay any sum due and owing to AMERICA'S SOFTWARE CORPORATION shall constitute grounds for termination of the hosted Services.

**Software Changes or Modifications**

AMERICA'S SOFTWARE CORPORATION may change, modify, suspend, or discontinue any aspect of the Website at any time, including, without limitation, access policies, the availability of any Website feature. We reserve the right to change prospectively the amount of, or basis for determining, any fees or charges for the Website, and to institute new fees or charges for access to portions of the Website effective upon prior notice to Users by posting such changes on its web site, by pop-up screen or by sending e-mails to Users.

**Notice of Changes to Privacy Policy**

If we make any material changes to this Privacy Policy, we will seek consent and notify you either through the email address you have provided us, or by placing a prominent notice on our website. We agree not to make material changes to privacy that are inconsistent with contractual requirements.

**DISCLAIMERS**

All content and other materials published or otherwise made available through AMERICA'S SOFTWARE CORPORATION are provided "as is" and without warranties of any kind, either express or implied. To the fullest extent permissible pursuant to applicable law, AMERICA'S SOFTWARE CORPORATION disclaims all warranties, express or implied, including but not limited to, implied warranties of merchantability and fitness for a particular purpose, absence of viruses, or accuracy or completeness of responses, of results, and lack of negligence or lack of workmanlike effort. AMERICA'S SOFTWARE CORPORATION does not warrant that the functions contained in the materials will be uninterrupted or error-free, that defects will be corrected, or that AMERICA'S SOFTWARE CORPORATION or the servers that make it available are or will be free of viruses or other harmful components. AMERICA'S SOFTWARE CORPORATION does not warrant or make any representations regarding the use or the results of the use of the materials on AMERICA'S SOFTWARE CORPORATION in terms of their correctness, accuracy, reliability or otherwise. No oral or written information or advice given by AMERICA'S SOFTWARE CORPORATION, or its representatives, shall create a warranty or in any way increase the scope of this warranty.

**LIMITATION OF LIABILITY**

AMERICA'S SOFTWARE CORPORATION shall not be liable for any special, direct, indirect, or consequential damages that result from the misuse of, or the inability to use, the materials on AMERICA'S SOFTWARE CORPORATION, even if AMERICA'S SOFTWARE CORPORATION or its authorized representatives has been advised of the possibility of such damages. Applicable law may not allow the limitation or exclusion of liability for incidental or consequential damages, so the above limitation or exclusion may not apply to you. In no event shall AMERICA'S SOFTWARE CORPORATION's total liability to you for all damages, losses, and causes of action, whether in contract, negligence, tort or otherwise exceed twice the amount paid by you, if any, for accessing Taleval.com & OnlineDiscoveryPro.com website services. The limit of liability shall not apply to claims arising from gross negligence, willful misconduct, personal injury, and death.

## **JURISDICTIONAL ISSUES**

AMERICA'S SOFTWARE CORPORATION makes no representation that materials on Taleval.com & OnlineDiscoveryPro.com are appropriate or available for use in all locations. Those who choose to access Taleval.com & OnlineDiscoveryPro.com do so on their own initiative and are responsible for compliance with local laws, if and to the extent local laws are applicable. Software from AMERICA'S SOFTWARE CORPORATION is further subject to United States export controls.

## **BREACH OF SECURITY**

Reporting of Suspected and Actual Breaches. America's Software Corporation will notify customer by telephone and email. In no event shall the report be made more than two (2) business days after a breach has occurred. Any breach may be grounds for immediate termination of this Agreement by the customer. America's Software Corporation will be responsible for the cost of the breach if breach is due to negligence by us or our staff.

## **MISCELLANEOUS**

In the event any provision of this Agreement conflicts with the law under which this License Agreement is to be construed or if any such provisions are held invalid by a court with jurisdiction over the parties to this Agreement, such provision will be deemed to be restated to reflect as nearly as possible the original intentions of the parties in accordance with applicable law, and the remainder of this Agreement will remain in full force and effect. The failure of either party to insist upon or enforce strict performance by the other party of any provision of this Agreement or to exercise any right under this License Agreement will not be construed as a waiver or relinquishment to any extent of such party's right to assert or rely upon any such provision or right in that or any other instance, rather, the same will be and remain in full force and effect. AMERICA'S SOFTWARE CORPORATION may assign its rights and obligations under this Agreement and upon such assignment AMERICA'S SOFTWARE CORPORATION may be relieved of any further obligation hereunder. You represent to AMERICA'S SOFTWARE CORPORATION that you have the authority to subscribe to and/or use AMERICA'S SOFTWARE CORPORATION according to the terms and conditions of this License Agreement.

AMERICA'S SOFTWARE CORPORATION takes many precautions to protect our Clients' information including the following:

### Physical Safeguards

- Access to our data center in Arizona is limited to authorized personnel
- Badges and biometric scanning control access
- Our data center uses security cameras to provide video surveillance
- Dual power paths into the facility
- Uninterruptable power supplies (N+1 or greater)
- Diesel generators (service agreements with fuel suppliers)
- Fire suppression, smoke and flood detection
- Independent firm performs annual audits

### Technical Safeguards

- Data encryption
- Network redundant firewalls
- Use SSL Certificate to ensure secure connections from the server to a browser
- Antivirus protection
- Use of strong passwords
- Unique User/Password authentication and authorization
- Use Access logs to lock out accounts with suspicious activity
- Block accounts with repetitive failed login attempts
- Auto logoff after inactivity
- SQL server with overlapping layers of security
- Mirrored hard-drives
- Plan to delete unwanted data

## Business Continuity Plan

- ISO 27001/2-based policies and annual review.
- Plan to protect and respond against the following threats:
  - Prolonged power outage
  - Massive cyber attack
  - Workplace Violence
  - Fire damage
  - Severe weather
- Documented change management procedures.
- Incident management and business continuity plans.

All Users are entirely liable for all activities conducted through their account, and are responsible for ensuring that any other person who uses the account is aware of, and complies with, the terms of this Agreement. Each person who uses the account agrees to be bound by the terms of this Agreement, whether or not such person is a Member. You agree to notify us of any known or suspected unauthorized use(s) of your account, or any known or suspected breach of security, including loss, theft, or unauthorized disclosure of your User Name and password. We will have no liability for any circumstances arising from the unauthorized use of a User Name, Member's password or your account. You acknowledge that, although AMERICA'S SOFTWARE CORPORATION agrees to use its best efforts to comply with and to ensure that its users, content providers, distributors and licensees comply with our Privacy Policy. If you have reason to believe that your Account is no longer secure (for example, in the event of a loss, theft, or unauthorized disclosure or use of your User Name, password), you must promptly change your password and notify us of the problem by sending an email to [admin@americassoftware.com](mailto:admin@americassoftware.com) or by telephoning us at 1-800-467-1170. Our web sites, Taleval.com & OnlineDiscoveryPro.com are secured by an SSL certificate. All patient/client and student names, addresses, birth dates etc. are encrypted.

**HIPAA Hosting Features include:** Intrusion Prevention, Fully Managed Firewall, Anti-Malware Protection, Encrypted Storage, Encrypted Backups, Vulnerability Scans and File Integrity Monitoring and Login Names/Passwords with unique permissions. We make reasonable efforts to use, disclose, and request only the minimum amount of protected health information needed to accomplish the intended purpose of the use. TalEval stores two pieces of PII information: Patient Name and Birthdate. This data is encrypted in our database. The patient birthdate is not displayed on any form or report in TalEval. It is only used to determine the age of the patient in the tracking report. The patient name is only visible to users with an ADMIN type login and only in the grade header.

We agree that our Voluntary Product Accessibility Template (VPAT shows our Software's degree of compliance with Section 508 of the Rehabilitation Act of 1973 (Section 508) as of the date of our VPAT's creation. We agree to use our reasonable efforts to maintain our Software to the same degree of compliance with Section 508 during the term of the Agreement. We also agree to use our reasonable efforts to assist you to provide reasonable accommodations and academic adjustments in compliance with the Americans with Disabilities Act (ADA) and Section 504 of the Rehabilitation Act of 1973.

---

### America's Software Corporation

718 N. Alamosa Drive  
Boiling Springs, SC 29316  
800-467-1170