

## **Terms of Service of the Digital Clinical Thermometer Application**

These terms of service for the Digital Clinical Thermometer (hereinafter referred to as "these Terms") set forth the terms between the user of the "Digital Clinical Thermometer Application" (hereinafter referred to as the "User") and TDK Corporation (hereinafter referred to as "TDK") in connection with the use of the data saving and management services including the basal body temperature data provided by TDK as this application".

### **Article 1 (Definitions)**

The following words whenever used in these Terms shall have the following meanings:

1. "These Services" shall mean the services", wherein data entered by the User regarding such things as menstrual cycle and basal body temperature is saved and managed by use of the Thermometer. These Services refers to services provided through this Application;
2. "This Application" shall mean specialized application software provided by TDK for smartphones and similar devices in order to provide these Services; and
3. "Thermometer" shall mean the Digital Clinical Thermometer which TDK supplies under the model number of HT-201 and the Digital Clinical Thermometer which Toshiba Corporation sold from March 2013 to June 2016 under the model number of HT-201.

### **Article 2 (Precautions Regarding Use of These Services)**

1. These Services provide predictions regarding the menstrual cycle and ovulation that are calculated using a formula based on the menstrual cycle and basal body temperature data entered by the User. The predictions provided by these Services are to be used as a reference only. Any information provided by these Services may not always be accurate for each User's differing circumstances and conditions, and thus TDK shall not warrant the accuracy of any information provided.
2. These Services are not intended for use in any way as treatment or prevention of any illness, disease, or other bodily state (including pregnancy) and does not provide any medically valid information to the User. TDK does not in any way provide any medical examinations, diagnoses or treatment, and the information provided does not have any medical validity or accuracy. TDK shall not warrant the validity or accuracy of this information provided. TDK assumes no responsibility whatsoever for any damage or loss, including damage to health, suffered by the User or previous Users of these Services through the use of these Services.

3. The User shall understand the previous two clauses, shall be responsible for their use of these Services and shall use these Services at their own discretion. Users shall use these Services with the agreement that they shall not make any claims against TDK regarding any damage or loss, including damage to health, suffered through the use of these Services, including that suffered after stopping using or withdrawing from these Services. Furthermore, the User shall make arrangements for appropriate examinations and consultations at medical facilities etc. at their own discretion as necessary while using these Services and after using these Services.

### **Article 3 (Use by Minors)**

1. Minors shall use these Services after sufficient discussion with their guardians, shall register for these Services with the permission of their guardians and use these Services following the guidance of their guardians.
2. Guardians consulted by their minors of the registration and use of these Services shall read these Terms and decide whether the registration and use is suitable for the minor, and after registration the guardian shall instruct the minor to use these Services in accordance with these Terms and Others (as defined in Article 4).

### **Article 4 (Terms of Use)**

1. The User shall use these Services in accordance with these Terms and other policies, rules, guidelines, notifications, assurance provisions and others (hereinafter collectively referred to as "these Terms and Others") separately specified by TDK.
2. TDK reserves the right to change these Terms and Others and these Services at its discretion. If these Terms and Others are revised or altered (including any changes, modifications, additions and deletions made to these Terms and Others, and any notifications etc. released by TDK relating to these Services), these revisions and alternations shall come into effect and the User shall agree to them from the time the User can know them (including, but not limited to, the time when the revisions and alterations are made available on the website). TDK assumes no responsibility whatsoever for any damage or loss suffered by the User as a result of such revisions and alterations.

### **Article 5 (Environments for Usage of these Services)**

1. An applicable internet environment is required for the User to use this Application and the User uses these Services. The User shall bear all costs of the preparation for the internet environment (including smartphone mobile devices and communication

devices, but excluding computers) and the usage the internet (usage fees paid to the internet service provider or communication company, etc.).

2. A smartphone or other device on which this Application can be used is required for the User to use these Services. However, TDK shall not warrant that these Services can be provided normally on all types of mobile devices.

#### **Article 6 (Use by Non-Users)**

The User shall not allow any other person to use these Services. The Use of these Services through this Application registered by the User shall be considered as the use of the User only. TDK assumes no responsibility whatsoever for any damage or loss suffered by the User or any other parties arising out of the third party's use of these Services.

#### **Article 7 (Intellectual Property Rights)**

1. TDK grants to the User the non-proprietary, non-sublicenseable and non-transferable license to use this Application only on the internet environment according to these Terms and Others.
2. All intellectual property rights including this Application and these Services are protected by the applicable laws and treaties. All Information, articles, photographs, illustrations, moving images, sounds and other contents provided through these Services, and all trademarks, copyrights and other intellectual property rights of the software, firmware, library in this Application shall be retained by TDK or the third parties specified by TDK.
3. The User may use information provided by TDK through this Application and these Services for personal use only, and the User shall not use, for commercial purposes or on websites or similar means available for public, or transfer to any third parties, the information.
4. The following are prohibited for the User when using this Application.
  - (1) Reverse engineering of this Application etc. by disassembling, decompiling and other means,
  - (2) Tampering of this Application, and
  - (3) Developing programs with the use of a part of or all of this Application.

#### **Article 8 (Termination of and Withdrawal from These Services)**

These Services shall terminate when this Application is uninstalled, and the User shall be withdrawn from these Services at the termination. If these Services terminate, the

User shall not be able to view any of the input data or received contents data. Any data shall not be retained after withdrawal from these Services, and cannot be reused if the User registers again.

#### **Article 9 (Suspension of These Services)**

1. TDK may suspend all or part of these Services in the event of any of the following:
  - (1) If any maintenance, inspection, repair or construction of devices etc. necessary for these Services is performed;
  - (2) If failures occur in any of the devices etc. necessary for these Services;
  - (3) If communication links are disrupted, significantly jammed or there are any other circumstances that make it difficult to use communication links;
  - (4) If this Application is hacked, is vandalized or otherwise damaged;
  - (5) If it is impossible to provide these Services due to an event beyond control, such as a natural disaster; and
  - (6) In addition to the preceding items, if TDK determines that these Services must be suspended due to any technological or operational reasons.
2. TDK assumes no responsibility whatsoever for any damage or loss suffered by the User as a result of suspension of these Services as described in the previous clause.

#### **Article 10 (Stop and Discontinuance of These Services)**

1. TDK may stop or discontinue these Services at its discretion.
2. TDK assumes no responsibility whatsoever for any damage or loss suffered by the User or any third parties as a result of the stop or discontinuance of these Services.

#### **Article 11 (No Warranty)**

This Application is provided on an "AS IS" basis and TDK shall not warrant whatsoever that these Services and this Application are free of defects, that data sent and received through these Services will be stored correctly and displayed on the screen of the User's smartphone etc. on which this Application has been downloaded, and that the information on the site and other information provided to the User by TDK in connection with these Services is accurate and valid. The Users shall understand these provisions above and use these Services under their own responsibility.

#### **Article 12 (Inquiries Regarding This Application)**

Personal information provided by the User through the "Thermometer Support Service" shall be treated according to the Personal Information Protection law and the [TDK Personal Information Protection Basic Policy](#). Such personal information shall be provided to TDK, TDK Affiliates, distributors, and Toshiba Hokuto Electronics Corporation (the manufacturer and distributor of the Thermometer), and any companies subcontracted by TDK, in order to manage the record of answers and service history for all inquiries.

#### **Article 13(No Responsibility)**

TDK assumes no responsibility whatsoever for any of the following:

- (1) Any damage and loss suffered by the User through the use of these Services;
- (2) Inability of the User to use all or a part of these Services or this Application;
- (3) The consequences of any actions carried out by the User in accordance with the information, advice, and predictions, etc. provided through these Services; and
- (4) Any other damage, loss or prejudice suffered by the User, previous Users or a third party in connection with these Services.

#### **Article 14 (Prohibited Act)**

The User and previous Users are prohibited from the following acts:

- (1) Any act that breaches or may breach these Terms and Others, and any laws and regulations;
- (2) Transferring the User's status to third parties or allowing third parties to use these Services by any means;
- (3) Any act that interferes the business of TDK or any of the TDK group companies;
- (4) Any act that interferes other Users' use of these Services;
- (5) Reprinting, copying, accumulating, or transferring any of the content of these Services without prior consent of TDK; and
- (6) In addition to the preceding items, any act that TDK deems to be inappropriate.

#### **Article 15 (Compulsory Measures)**

1. TDK may unilaterally withdraw the User from these Services, stop these Services, limit the use of these Services, and impose any other measures deemed appropriate by TDK on the User for any of the following reasons:
  - (1) If the User breaches or may breach these Terms and Others;
  - (2) If the User breaches or may breach any laws and regulations in relation to these Services;

- (3) If the User infringes on any rights in this Application and these Services and misappropriates this Application and these Services by any means;
  - (4) If the User impersonates another person;
  - (5) If TDK deems that the User may interfere the provision of these Services; and
  - (6) In addition to the preceding items, if TDK deems that the User is ineligible for these Services.
2. The User agrees that TDK shall assume no responsibility for any damage or loss suffered by the User due to measures imposed by TDK under the preceding paragraph.

#### **Article 16 (Handling of Personal Information)**

Any personal information regarding the User that is collected by TDK in providing these Services shall be handled according to the Personal Information Protection law and the [TDK Personal Information Protection Basic Policy](#). Menstruation information, basal body temperature and other data entered by the User when using these Services, and the status of communication and other information (hereinafter referred to as "Life Log Information") shall be stored within this Application on the smartphone or other device used by the User. Therefore, no Life Log Information shall be transferred to the TDK servers, etc.

#### **Article 17 (Compensation for Damage)**

If the User breaches these Terms and Others, or any damage is suffered or expenses are incurred by TDK due to the intentional or negligent act of the User, the User is liable for any damage suffered and expenses (including legal fees) incurred by TDK.

#### **Article 18 (Language, Applicable Law and Jurisdiction)**

1. The Japanese version shall be the original.
2. These Terms and Others shall be governed by and interpreted in accordance with the laws of Japan.
3. The Tokyo District Court shall have the exclusive jurisdiction of the first instance over all proceedings between the User and TDK arising in connection with these Services.

#### **Article 19 (Export Administration)**

The User shall agree to comply with the applicable export administration regulations as well as other laws and regulations in case of exporting this Application and the

technology incorporated therein. The User shall not export or re-export the information, technology or goods received under these Terms without approval of the government of the relevant countries required by the relevant laws and regulations, and shall not use such information, technology or goods for development or manufacturing of nuclear weapons, chemical weapons, biological weapons, and missiles.

End of document

(Established on, 2016)