

## Web Site Terms and Privacy Statement

By logging into your account, Customer acknowledges 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 or 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 Customers 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 daily 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 order.

### 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 Customer 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 Customer information, making determinations on disclosure, sharing and distribution of information is solely the responsibility of Customers 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.

### Ownership and Intellectual Property

The software and all related intellectual property rights, including ideas, concepts, and designs, belong solely to America's Software Corporation. Users are granted a license to use the software but do not gain ownership or rights to our ideas.

### Enforcement

Violating the license terms can result in termination of the software license and legal action for infringement.

### Records Access

Access to records will be strictly controlled by user names and passwords issued to individual Users of the Customer. 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. Customers 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. Customers 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 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 including but not limited to Acts of God, fire, flood, explosion, earthquake, or other natural forces, war, civil unrest, pandemic.

**Assignment**

The Customer may not transfer or assign this agreement, in whole or in part, or delegate any of its duties hereunder, to a third party by change in control, operation of law or otherwise, without prior written consent.

**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. Personally Identifiable Information (PII) is not collected via our cookies.

**Log Files**

We use and log information for security purposes. All such collected information will be available for review by Customer, to enable Customer 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 Customer or User may, in AMERICA'S SOFTWARE CORPORATION'S discretion, result in termination of hosted services by AMERICA'S SOFTWARE CORPORATION to the Customer or User without notice. Finally, failure of a Customer 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**

America's Software Corporation reserves the right to make necessary changes to this Privacy Policy at any time and without prior notice. Any changes will be posted online without delay. 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. 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.

### **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 employees.

### **Agreement**

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 Customer data including: "Student Privacy Pledge" <https://studentprivacypledge.org/privacy-pledge/>

### **Physical Safeguards (Rackspace Technology)**

- Access to our data center in Ashburn, Virginia 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
- Continuously monitor for leaked source code, malicious source code and exploits using ImmuniWeb©
- 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 [taleval@icloud.com](mailto:taleval@icloud.com) or by telephoning us at 1-800-467-1170.

**HIPAA Hosting Features include:** Intrusion Prevention, Fully Managed Firewall, Anti-Malware Protection, Encrypted Data Storage, Encrypted Backups, Vulnerability Scans and File Integrity Monitoring and Login Names/Passwords with unique permissions. We make reasonable efforts to use only the minimum amount of protected information needed to accomplish the intended purpose of the software use. TalEval does not store high risk Information such as student birthdates, social security numbers, credit card numbers, bank account info, health insurance info, medical histories or driver license numbers. TalEval includes a feature that allows the user to enter their router's IP Address. This will tell the software when a user is logging off-campus. Instructors/Students logging in off-campus will only see Patient ID numbers instead of patient names.

**VPAT:** 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.

**Cloud Security: Rackspace FedRAMP** Moderate authorization since 2015. Deployment Model: Government Community Cloud. Rackspace is also **compliant** with multiple other security frameworks including FISMA, DoD SRG IL2, IL4, DFARS, NIST 800-171, ITAR, HIPAA, PCI and SOC Type 2. In 2015, the FedRAMP Joint Authorization Board authorized the Rackspace Government Cloud after a thorough review by an accredited third-party assessor. America's Software Corporation TX-RAMP certification # TX1082491.

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#### **America's Software Corporation**

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