



Participant Terms and Conditions

These Terms and Conditions (**Terms**) form the agreement between you and ResMed Asia Pacific Limited (ABN 86 070 076 470), of 1 Elizabeth Macarthur Drive, Bella Vista, NSW 2153, Australia (**ResMed, we, us, our**) in respect of your participation in the ResMed 'Virtual Insomnia pilot project', known as 'Rivi' (**Project**), the details of which are set out at rivi.resmed.com.au (**Landing Page**).

These Terms and the Landing Page Terms (as defined below) constitute the entire agreement between you and ResMed, in connection with your participation in the Project.

Once you accept these Terms, you acknowledge that you have entered into a legally binding agreement with us in relation to your participation in the Project, and you must comply with the Terms. Please read the Terms carefully, and if you do not understand or agree with the Terms, do not sign them. You acknowledge and agree however, that if you do not sign the Terms, then you will not be able to participate in the Project. You also acknowledge and agree that if you do not comply with these Terms, then we may, with notice to you, remove you from the Project.

We encourage you to seek independent legal advice in relation to the Terms before signing them and you acknowledge and agree that you have been given the opportunity to seek such advice.

1 The Term

These Terms commence on the date that they are signed by you and will continue for as long as you continue to participate in the Project, unless terminated earlier (**Term**), provided that, certain aspects of these Terms may survive termination or expiry.

2 Process for participation in the Project

Once you have registered for the Project via the Landing Page, and agreed to these Terms, your substantive participation in the Project will be undertaken via the Rivi Booking Portal located at [rivi.drlullaby.com] (**Booking Portal**), through which you will be able to purchase your subscription to the Rivi App (**App**) and book and pay for your teleconsultations with one of the Project specialists. ResMed may, from time to time and in its discretion, offer you a discount on the amounts payable for your participation in the Project, via a voucher code, which may be redeemed via the Booking Portal. You acknowledge and agree that we are under no obligation to offer you a discount and we in no way represent to you that you will be offered a discount at any time during the Term.

You acknowledge that your use of the Landing Page in connection with the Project will be pursuant to the terms of use for the Landing Page, located at [rivi.resmed.com.au/terms-and-conditions] (**Landing Page Terms**).

You further acknowledge that:

- (a) the Booking Portal and the App are operated by ResMed's partner for the Project, DrLullaby, LLC (**Project Partner**); and
- (b) the telehealth services provided in connection with the Project are provided by the Project Partner and relevant Project specialists,

and not ResMed, and ResMed has no control over, and is not involved in, your participation in the Project via the Booking Portal and the App or the provision of the telehealth services of relevant third parties.

3 Use of the Booking Portal

You acknowledge and agree that your use of the Booking Portal in connection with the Project will be pursuant to the terms of use for the Booking Portal, located at [<https://rivi.drlullaby.com/terms-and-conditions/>] and that you must comply with those terms.

4 Continuation of the Project

You acknowledge and agree that we reserve the right, in our discretion, to change or discontinue the Project, without liability to you. If we discontinue the Project, we will notify you, and we, or our Project



Partner, will provide you with a refund of any amounts paid by you in connection with the Project that relate to services you have not been able to use by virtue of that discontinuation.

Except to the extent that we make such warranties in the Consumer Guarantees (defined below) in clause 10 below, we do not warrant that the quality of any services, information or other materials provided by you in connection with the Project will meet your needs or expectations.

5 Project Materials

All copyright and other intellectual property rights in any information or materials provided to you in connection with the Project (**Project Materials**) are owned by us, our licensors and/or the Project Partner.

We grant you a personal, revocable, non-transferable, non-exclusive licence to use the Project Materials solely in connection with your participation in the Project.

You must not (and must not attempt to):

- (a) except as permitted by the licence set out above, use or copy any part of the Project Materials without our prior written consent;
- (b) distribute, translate, modify or tamper with the Project Materials;
- (c) create derivative works of or from any part of the Project Materials;
- (d) sell, rent, lease, sub-license, assign, exchange or otherwise transfer your rights under these Terms;
- (e) remove, obscure, obstruct, tamper with or alter any copyright marks, trade marks or other proprietary marks or notices on the Project Materials; or
- (f) permit or assist any person to engage in any act described in paragraphs (a) to (e) above.

We may, in our discretion, remove any Project Materials from circulation, and if we notify you, you must immediately delete or destroy any such Project Materials in your control or possession.

The Project Materials are subject to updates from time to time and, while we aim to ensure that they are up-to-date, there may be delays, errors or omissions that could affect the currency or accuracy of the Project Materials and we cannot and do not warrant or guarantee that the Project Materials are or will be current, complete or accurate.

6 Confidentiality

To the extent that ResMed provides you with any Project Materials, you acknowledge and agree that:

- (a) those Project Materials are the intellectual property and confidential information of ResMed;
- (b) you must keep confidential the Project Materials, do all things reasonably necessary, prudent or desirable to safeguard the confidentiality of the Project Materials and not use or disclose the Project Materials to any other person, except as permitted under these Terms;
- (c) you must not use any Confidential Information to compete with us or assist any other party to compete with us;
- (d) the obligation of confidentiality in this clause applies to any Project Materials provided to you before or after the execution of these Terms; and
- (e) an award of damages or an account of profits may not adequately compensate ResMed for your breach of this clause, and we may seek and obtain injunction to prohibit or restrain you from any breach or threatened breach of this clause.

You also acknowledge and agree that ResMed may, from time to time and in connection with the Project, collect information and data from you and our Project Partner relating to your participation in the Project, and such information will be the confidential information of ResMed for the purposes of this clause.

7 Privacy



We may collect, use and store your Personal Information (as that term is defined in the *Privacy Act 1988* (Cth)) in accordance with these Terms, our [Privacy Policy](#), the *Privacy Act 1988* (Cth), the Australian Privacy Principles made under that act, including for the purposes of making available the Project, assessing your eligibility to participate in the Project, and complying with our legal obligations.

You represent and warrant to us that the Personal Information you provide to us in connection with the Project is, to the best of your knowledge, complete and accurate.

Please review our [Privacy Policy](#) so that you understand the specific ways in which we may collect and use your Personal Information.

8 Marketing and Communications

We will use the contact information you provided us if we need to contact you about these Terms or the Project. We may also contact you from time to time for marketing and promotional purposes, in accordance with the *Spam Act 2003* (Cth).

In each message we send, we will provide you an option to opt-out of further marketing communications from us. However, if you do not wish to receive these messages at all, please email us at [rivi@resmed.com.au].

9 Liability and indemnity

Except for any liability under the Consumer Guarantees and to the maximum extent permitted by law, ResMed, its related bodies corporate (as that term is defined in the *Corporations Act 2001* (Cth)) and their respective employees, contractors, subcontractors, officers, agents, representatives, successors and assigns (together, the **ResMed Parties**) exclude all responsibility and liability to you in contract, tort, at common law or otherwise for any Loss you suffer, directly or indirectly, from or in connection with your participation in the Project, including in relation to any special, indirect or consequential Loss.

You acknowledge that your participation in the Project involves the receipt of services from third parties (including the Project Partner), over which ResMed has no control. Accordingly, you:

- (a) agree to indemnify and hold harmless the ResMed Parties from and against any loss or damage suffered or incurred by the ResMed Parties, or any claim or demand made against any of the ResMed Parties, arising out of or in connection with your participation in the Project; and
- (b) to the maximum extent permitted by law, and in consideration of you being allowed to participate in the Project, waive, release and discharge the ResMed Parties from any and all responsibility and liability arising in connection with your participation in the Project, and from any claims that may accrue now or in the future in connection with your participation in the Project.

To the extent permitted by law, we exclude from these Terms all representations, guarantees, conditions, warranties, rights, remedies, liabilities and other terms that may be conferred or implied by statute, general law or custom (except any guarantee or right conferred under the Consumer Guarantees, as defined in clause 10 below), the exclusion of which would contravene legislation or cause part or all of this section to be void).

10 Consumer Guarantees

Under the 'Australian Consumer Law' contained in Schedule 2 to the *Competition and Consumer Act 2010* (Cth), certain statutory guarantees are conferred in relation to the supply of goods or services to a Consumer (**Consumer Guarantees**).

Where you as a Consumer acquire services from ResMed under these Terms through your participation in the Project, and those services:

- (a) are of a kind ordinarily acquired for personal, domestic or household use or consumption (**PDH Services**), the operation of the Consumer Guarantees cannot be, and are not in these Terms, excluded, restricted or modified; or
- (b) are not PDH Services, we limit our liability for a failure to comply with any Consumer Guarantee (other than where to do so would otherwise cause all or part of this section to be void) to, at our option, re-supplying the services or paying the cost of having the services re-supplied,



and we do not exclude or limit the operation of the Consumer Guarantees under any other provision of these Terms or in any other manner and you agree it is fair and reasonable in all the circumstances for our liability to be so limited.

11 Termination

You acknowledge and agree that:

- (a) you may terminate these Terms and your involvement in the Project at any time by giving us at least 10 working days' written notice;
- (b) we may terminate these Terms immediately with notice to you if you breach these Terms; and
- (c) we may also suspend your involvement in the Project, without prior notice or liability to you, for any reason whatsoever.

12 Survival

You acknowledge and agree that clauses 5, 6, 7, 8, 9, 10, 14 and 15 of these Terms survive the termination or expiry of these Terms and your participation in the Project.

13 Contact Us

If you have any complaints or wish to discuss any matter in respect of the Project or these Terms, you can contact us by clicking on the 'Contact Us' tab on the Landing Page or by contacting us via rivi@resmed.com.au.

14 Governing Law and jurisdiction

These Terms are governed by the laws of the State of New South Wales, Australia and each party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of the State of New South Wales, Australia and the courts having appeal from them.

15 Miscellaneous

We do not waive a right, power or remedy in connection with these Terms if we fails to exercise or delay in exercising the right, power or remedy.

If any provision of these Terms is found to be invalid by a court of competent jurisdiction, then the relevant provision may be severed from these Terms and the invalidity of that provision will not affect the validity of the remaining provisions.



Participant Declaration

- I agree to participate in the Project in accordance with these Terms, which I have read and I understand and agree to. I further acknowledge that I am participating in the Project at my own risk and that I am foregoing, in advance, present and future legal rights and/or remedies to which I may otherwise be entitled in relation to any loss or damage that I may suffer or incur in connection with my participation in the Project.
- I agree to give ResMed access to my Personal Information for the purpose of the Project, which I acknowledge will be handled in accordance with ResMed's [Privacy Policy](#).
- I consent to being contacted by ResMed via email, SMS and phone in relation to the Project and for the purposes of being provided marketing and promotional materials from time to time.
- I confirm that I am over 18 years old.