

# Terms & Conditions of the Mali Wspaniali Platform

## (The Little Marvelous Ones Platform)

### §1

#### DEFINITIONS

**Foundation** – The Mali Wspaniali Foundation (The Little Marvelous Ones Foundation) with a registered office at 2-24 Ślężna Street; (postal code: 53- 302) in Wrocław, entered in the National Court Register (KRS) under number: 00000533789, e-mail: fundacja@mali-wspaniali.pl.

**The Mali Wspaniali Programe/ Programme** – a programme of general development activities carried out in the educational establishments for children at pre-school and early school age, together with measurements of fitness tests and other developmental aspects of the participants.

**The Mali Wspaniali Platform/Application** – an organisational and IT solution available in the ..... domain serving for the purpose of collecting, inter alia, the necessary approvals for the participation of children in the programme of sports activities carried out under the Mali Wspaniali Programme in the establishments, collecting and analysing data on the measurements of the programme participants and results of fitness tests, providing an educational content, among others, on the proper development of children at the pre-school and early school age. An access to the data entered in the Application is granted only to the registered and authenticated Users to the extent corresponding to the rights specific to the type of an account for: Parent/Legal Guardian, instructor or administrator/controller in a form and to the extent compliant with the requirements of the law provisions in force in Poland and in compliance with the law provisions on personal data processing.

**Service** – making available to the Users by the Foundation the data stored in the Application, information about the required consents in the Mali Wspaniali Programme, the results of fitness tests and the level of fitness of the Programme participants at the end of the tests, making available educational and expert content concerning the development of children, sending content electronically, making available other functionalities of the Application, as well as enabling the Users with the appropriate rights to enter, modify or delete data stored in the Application (e.g.: instructor).

**User** – a person who uses the Application in any manner by means of an account created for him/her. Types of accounts differ, inter alia, within the scope of rights to access, enter, modify or delete data entered into the Application. The users are the Parents / Legal Guardians of children attending the educational establishments where the Mali Wspaniali Programme is implemented, and who have accepted the consent for the child's participation in the programme contained in the Application, the instructors conducting classes with the children in the educational establishments who have implemented the Mali Wspaniali Programme, persons authorised by the Foundation acting as the Platform Administrator/Controller. All children of a Parent/Legal Guardian participating in the Programme may be entered into one account, regardless of their age, while the account may be created by one Parent/Legal Guardian.

**Kindergarten/Establishment** - each educational establishment which has implemented the Mali Wspaniali Programme on the basis of an agreement signed with the Foundation or an establishment for which an agreement has been signed by its Leading Body or a private/governmental supervisory institution, under which it has implemented the Programme and uses the Application.

**Governing Body/Supervisory Institution** - a private/public or state-owned institution/ organisation that supervises, manages educational establishments and undertakes obligations on their behalf.

**Platform Administrator/Controller** – a person appointed by the Foundation to administer the Platform/Application, responsible for the provision of services, including but not limited to: posting results of fitness test results and other aspects of children's development, posting content on the Platform (including educational and expert articles), assigning and managing the User's accounts on behalf of the Foundation, including the deletion of such accounts.

**Terms & Conditions** – means these terms and conditions of the use of the Platform/Application, including the rights and obligations of the Users, the Foundation connected with the use of the Platform and the provision of the Services through the intermediary of it.

## **§2**

### **PRELIMINARY PROVISIONS, RULES OF ACCEPTANCE OF THE TERMS & CONDITIONS**

1. These Terms & Conditions set forth the terms and conditions of use of the Platform/Application. Each User is obliged, from the moment of undertaking activities aimed at the use of the Platform/Application, to read, accept and comply with these Terms & Conditions.
2. The Terms & Conditions are made available free of charge at the address <http:// .....> and is presented during the registration of the user and the user has the right to record the content of the Terms & Conditions at any time (including by downloading the Terms & Conditions to a terminal device in the PDF format).
3. The Foundation provides the Services to every Parent/Legal Guardian who has accepted the consent to participate in the Mali Wspaniali Programme in respect of their child who participates in the kindergarten classes as a part of the Programme, every instructor hired to conduct classes as a part of the Programme.

## **§3**

### **RULES OF OPERATION OF THE PLATFORM/APPLICATION AND APPLICATION/PLATFORM**

1. The Application is a modern, continuously developed IT tool, which serves, inter alia, the Foundation, Parents/Legal Guardians, instructors in the implementation of the Mali Wspaniali Programme. The Platform collects, among others, information on the required approvals for participation in the Programme, progress in the development of physical fitness of children participating in the classes, educational and expert content on the development of children at the preschool and early school age, and which is then made available to the Users.
2. The Foundation, acting on the instructions of the institution commissioning the programme (Governing Body/Supervisory Institution for the establishment) or the kindergarten itself, with which it has signed an agreement, provides an access to the Platform/Application to the users.
3. The User (Parent/Teacher) registers with the Application using a special code provided by the management of the educational institution or the Foundation/Administrator/Controller and by entering his/her e-mail address. The registration process is completed when the User uses the activation link received to the e-mail address provided during the registration. The address provided during the registration cannot be changed during the use of the Application.
4. The Services for the User who is the Parent/Legal Guardian include in particular:
  - a) enabling the granting of a consent to participate in the Programme, which is understood to include, inter alia, the actions included in the definition of the Programme in §1, during the registration process on the Platform;
  - b) enabling the granting of a marketing consent and a consent to the use of the child's image within the Mali Wspaniali Programme;
  - c) making available to the Parents/Legal Guardians registered in the Application the data on the consents given concerning the child participating in the Mali Wspaniali Programme;
  - d) making available to the Parents/Legal Guardians registered on the Platform data on the results of their child participating in the fitness test and other measurements during the participation in the Programme;
  - e) enabling the Parent/Legal Guardian to enter and edit the child's identification data in the Application/Platform for the correct calculation of the child's fitness results;

- f) making available to the Parent/Legal Guardian articles and other expert content posted in the Application;
  - g) sending messages, communications, announcements and other information related to the activities undertaken by the Foundation to the users who have given their marketing consent;
  - h) enabling the sending of messages to the Foundation, in particular to the Administrator/Controller of the Platform, by means of the Platform/Application, and the posting by the Administrator/Controller or the Foundation of messages related to the operating of the Platform/Application;
  - i) providing the anonymisation of the account of the registered Parent/Legal Guardian with the personal data of the children (first name and surname) upon an expiration of a period of at least 5 years from the date of the registration on the Platform. The anonymisation shall consist in the permanent deletion by the Application of the account data, i.e.: the e-mail address provided by the Parent/Legal Guardian upon the registration, the first name and surname of the child(ren) entered by the Parent/Legal Guardian and the data related to the child's measurements for statistical purposes (i.e.: age, sex, test results, number and/or address of the establishment) shall remain;
  - j) deleting the account earlier than the end of the child's education in the establishment, upon a written request sent to the Foundation, provided that there are no legal grounds for the further processing of personal data by the Foundation.
5. The Parent/Legal Guardian shall be responsible for entering into the Platform/Application the data, in particular, the child's first name and surname, sex, quarter of birth and data of the kindergarten attended by the child. He/she bears full responsibility for the correctness, completeness, truthfulness and content of the data entered. An incorrect entry of e.g., the child's sex or birth quarter may result in an incorrect allocation of scoring and thus in an incorrect assessment of the child's fitness.
6. The scope of the Services intended for the User - Instructor includes in particular:
- a) enabling the assignment of the participants of the Programme to the groups in the given establishments;
  - b) enabling the entry, edition, deletion of results of fitness tests and other measurements of the participants of the Programme;
  - c) providing the instructor with an access to articles and other expert content posted the Application;
  - d) sending messages, announcements, and other information related to the operating of the Platform, including those connected with the fitness tests;
  - e) deleting the account earlier than termination of employment with the Foundation, at the written request sent to the Foundation, provided that there are no legal grounds for the further processing of personal data by the Foundation.
7. The accounts intended for the User-Instructor with appropriate permissions are created by the Platform Administrator/Controller, who assigns a special registration code to the instructor employed by the Foundation and grants permissions through the use of the login - Instructor's e-mail address given to the Foundation as a part of the contact details.
8. The access to the Platform/Application shall cease upon:
- a) the deletion of the Parent's/Legal Guardian's account in the Application by the Platform Administrator/Controller, which may only take place upon the written request of the Parent/Legal Guardian or using the template in Appendix No. 1 to the Terms & Conditions, sent to the Foundation by means of the Polish Post to the Foundation's address contained in §1 or by electronic means to the following address: [fundacja@mali-wspaniali.pl](mailto:fundacja@mali-wspaniali.pl);
  - b) the removal of the instructor's account upon a termination of the employment of the latter with the Foundation or in the situation described in § 5 e;

- c) the anonymization of the account after an expiration of 5 years from the date of registration by the Parent/Legal Guardian, which may take place up to one year upon the end of the child's attendance at the kindergarten; and in case where children attending the pre-schools at the kindergarten, after the end of their education there,
- d) the infringement of rules stated in § 4; item 3 hereof.

#### **§4**

### **RIGHTS, OBLIGATIONS, RESPONSIBILITIES OF THE FOUNDATION AND USERS, RULES OF USING THE PLATFORM/APPLICATION**

1. The User- Parent has the right:
  - a) at any time, without having to give reasons, to unsubscribe from the use of the Platform/Application, in particular, if the latter does not accept the Terms and Conditions in force at that time, the valid text of which is published on the Platform in a manner that allows it to be read and saved, before undertaking the act of logging in;
  - b) to unsubscribe from the use of the Platform/Application, which can be done by sending an e-mail to the Foundation from the address used to register or by post, with the content as per Appendix No. 1 hereto. The Foundation informs that the resignation causes the removal from the Platform/Application of the account of the Parent/Legal Guardian and a consent to the child's participation in the Mali Wspaniali Programme and thus a consent to activities carried out at the kindergarten and other activities related to the implementation of the programme, in particular tests and measurements. The data concerning the child shall be anonymised as stipulated in §3 point 4 (i). Should the User wish to return to the use of the Platform, the latter may ask the Foundation to generate the code again and carry out the registration process again. In order to receive the activation code, the Parent must inform the Administrator/Controller/Foundation in the written form or by e-mail of the resumption of access;
  - c) to contact for a new access code in case where the code provided is no longer valid, the code expires after 14 days;
  - d) to amend the access data - only the password to the account of the latter.
2. The User is forbidden to provide contents of an unlawful nature, infringing the law provisions or public decency.
3. The User fails to have the right:
  - a) to use the Platform/Application for activities that infringe the rights of third parties, activities that are contrary to the law provisions in force or the provisions hereof;
  - b) to use the internal possibilities offered by the Platform/Application to send messages for the purpose of disseminating the content: advertising, commercial or marketing, unlawful, offensive, promoting violence, of a discriminatory or racist nature, or infringing generally recognised public decency, or of disseminating spam;
  - c) the User is obliged to refrain from all activities that may hinder an access to the Platform by other Users, and from activities that disrupt or prevent the operating of the Application/Platform.
4. The infringement by the User of the prohibition of providing an illegal content, as referred to in section 2, or the infringement by the User of the provisions of section 3 above, shall constitute grounds for reporting the infringement to the relevant authorities and for the removal of the User's account.
5. To the extent that it is permissible, according to the generally applicable law provisions, the Foundation shall not be liable for:
  - a) the consequences resulting from gaining a control of the User's access data (login, password) to the Platform/Application by a third party, if this gaining a control has taken place for reasons not attributable to the Foundation;

- b) the unlawful actions of a third party involving the interference with the User's computer system, in particular, intrusions and computer viruses, the Foundation shall not be responsible for such actions;
  - c) the content of messages sent by the Users according to the rules set out in the generally applicable legislation;
  - d) the damages suffered by the User caused by the prevention of an access to data, according to the rules set forth in the generally applicable law provisions;
  - e) the content, correctness and completeness of data entered into the Platform by the Users; in particular, the data of children participating in the curriculum of the Mali Wspaniali classes;
  - f) the discontinuation of the provision of the Service due to a termination or a dissolution of the agreement between the kindergarten, operator or institution supervising educational establishments and the Foundation.
6. The Foundation reserves the right:
- a) to improve the Platform/Application, including simplifying, extending, modifying and also changing its functionality, in particular in order to adapt it to the rules of running the Programme and in particular the applicable law provisions and safety regulations;
  - b) to delete the account of any User in case where there is a reasonable suspicion that the account has been used in violation of the provisions of these Terms & Conditions, in particular §4 sections 2 and 3 hereof, or in the event of a reasonable suspicion of an unauthorised attempt to access data. Prior to the deletion of the account, the Foundation shall contact the User in order to clarify the suspicions and inform the latter about the further possible steps, including reporting to the appropriate authorities;
  - c) to make the data collected in the Application concerning the statistics of the results of the fitness tests and other measurements of children available to authorised entities according to the generally applicable legislation;
  - d) to disable the Platform for the time necessary for the proper performance of administrative activities related to the proper security, archiving and protection of the collected data;
  - e) the Foundation has the right to keep the anonymised data for the archiving, statistics and the limitation of claims-related purposes;
  - f) to process Users' personal data to the extent necessary to make available the results of the measurements of the children, to send information to the Parents/Legal Guardians concerning the operation of the Platform and other content adequate to the signed consent;
  - g) to anonymise and transfer to an archive some of the data from the Platform/Application after the end of each school year, in particular the results of the children's fitness tests that have taken part in the measurements, in order to prepare the statistical/scientific analyses;
  - h) to verify the quantity of the student's accounts entered by the authorised Users on the Platform/Application in relation to that declared by the kindergarten;
  - i) the Foundation does not guarantee the continuous availability of the Platform/Application, Services. The User must take into account that there may be interruptions in access to the Platform and the Services, particularly in relation to the need for changes or maintenance operations. The Foundation shall endeavour to keep such interruptions as short as possible.
7. The Foundation reserves the right to amend the Terms & Conditions. The material grounds are deemed to be:
- a) the introduction of new or amendment to existing generally applicable law provisions, if this has a direct impact on the content hereof and causes the need of its amendment;
  - b) changes or the emergence of new interpretations of generally applicable legal provisions as a result of court judgements or decisions of authorities or public administration bodies directly affecting the provisions hereof and causing the need for its amendment or an improvement of

products and services, including an adaptation to the market conditions related to the technical, technological and IT progress, affecting the provisions hereof;

- c) the adjustment of products and services to the groups of recipients of the Mali Wspaniali Programme;
  - d) the extension or change in the functionality of existing products and services having an impact on the content hereof.
8. Each User shall be previously advised about the content of amendments hereto by a message posted by the administrator of the platform sent to the Users, containing a link to the amended version hereof. The new version of these Terms & Conditions is binding for the User if, within 14 days of receiving information about the change, the User does not resign from using the Platform/Application in the manner indicated in § 4 item (x).
9. The complaints lodged by the user concerning the accessibility of the Platform must be submitted in the written form to the address of the Foundation specified in § 1 hereof or by electronic means using the Platform/Application of the internal mail available on the Platform. In the event of a complaint, the Foundation provides a response in the written form (by post or e-mail), within 30 days of the date of submission, to the address (including e-mail) specified in the letter of complaint.

## **§5**

### **PROCESSING OF PERSONAL DATA**

1. The Controller of the data processed in the Application in accordance with Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons in relation to the processing of personal data and on the free movement of such data and repealing Directive 95/46/EC (hereinafter: the GDPR) is the Foundation.
2. The Controller shall implement appropriate technical and organisational measures to ensure a level of security of personal data provided by the Users, in particular to prevent an access by third parties or their processing while infringing the law provisions, to prevent data loss, damage or destruction.
3. In all matters related to the processing of the User's personal data, the Controller can be contacted at: [fundacja@mali-wspaniali.pl](mailto:fundacja@mali-wspaniali.pl).
4. The Foundation processes the User's personal data according to:
  - a) Art. 6(1)(b) of the GDPR - processing is necessary for the performance of an agreement to which the data subject is party or in order to take steps at the request of the data subject prior to entering into an agreement; The agreement for the provision of services by electronic means with regard to the use of the Platform shall be concluded by the User with the Controller under the conditions provided for herein;
  - b) Art. (1)(e) of the GDPR - processing is necessary for the performance of a task carried out in the public interest. Tasks carried out in the public interest are understood to be tasks of public interest, such as, inter alia, supporting educational programmes for children in the schools and kindergartens;
  - c) Art. 6(1)(f) of the GDPR – processing is necessary for the purposes of the legitimate interests pursued by the controller, e.g., in the form of asserting claims, enabling a contact.
5. The legal basis for the processing of special categories of data resulting from the development of the results of physical fitness tests of the child/children, i.e., fitness, speed, strength, agility is Article 9.2.d) of the GDPR – processing is carried out in the course of its legitimate activities with appropriate safeguards by the Foundation, association or any other not-for-profit body with a political, philosophical, religious or trade union aim.
6. The legal basis for the processing of the image of the child/children for promotional purposes and/or of the e-mail address of the Parent/Legal Guardian/legal guardian for marketing purposes is Art. 6.1.a) of the GDPR – a consent given by the data subject to the processing of his or her personal data for one or

more specific purposes, i.e., that such data may be processed by the Foundation only if the Parent/Legal Guardian/legal guardian consents to such action.

7. Personal data shall not be made available to the third parties unless this is done in case where:
  - a) an express consent of the user;
  - b) a transfer of the data to the authorised bodies on the basis of law provisions.
8. Furthermore, in the certain situations the Controller has the right to transfer data, if necessary, to carry out the tasks, which are incumbent on the Foundation. Data shall be transferred solely and exclusively to the two groups:
  - a) the persons authorised by the Foundation, i.e., employees and collaborators of the Foundation, who must have access to the data in order to perform their duties;
  - b) the processor to which the Foundation has outsourced activities requiring the data processing, i.e., the developer and controller of the Platform/Application for the management and communication of the Platform related to the Mali Wspaniali Programme and the company providing e-mail marketing services;
  - c) the authorised state bodies (e.g.: police, court).
9. Your personal data shall be processed:
  - a) in case of the provision of electronic services aimed at enabling the creation of an account and the use of the functionalities of the Application/Platform - for the period of existence of the account as a part of rendering the services, then for the period required by law provisions and/or until an expiration of the limitation period for possible claims, i.e. for a period of 5 years, upon an expiration of which time period, personal data shall be anonymised and stored in this form for the statistical and archival purposes;
  - b) in case of sending marketing information - until the User raises an objection or withdraws a consent in respect of the data processing for the marketing purposes, or until the Foundation ceases its direct marketing activities;
  - c) in case of processing the image of the child for the promotional purposes - until the withdrawal of consent.
10. The User shall have the right at any time to withdraw his or her consent to the processing of his or her personal data for the marketing purposes (or, in case of the Parents/Legal Guardians, the personal data of their child/ward in the form of an image for the promotional purposes). A withdrawal of consent has effect from the moment of its withdrawal. The aforementioned withdrawal of a consent does not affect the processing carried out by the Controller lawfully prior to its withdrawal. The withdrawal of consent shall not entail any negative consequences for the User. However, it may prevent the further use of services or functionalities that the Controller may lawfully provide only while being given a consent.
11. The User has the right of access to the content of his or her personal data as the data subject and the right to rectification. In cases specified by the law, the User has the right to erasure, the right to restriction of processing, the right to data portability, the right to object to the processing of personal data. The User also has the right to lodge a complaint with the supervisory body right to lodge a complaint with the supervisory body involved in the protection of personal data, if he or she considers that the Controller (Foundation) has infringed the provisions on personal data protection.
12. Due to the fact that the personal data, i.e., first name and surname, e-mail address, shall be processed by the Controller for the purposes resulting from the legitimate interest of the Controller, the User has the right to object to the processing of personal data for the aforementioned purposes on grounds relating to the User's particular situation.
13. Any notifications concerning the User's personal data should be submitted directly by the User to the e-mail address: [fundacja@mali-wspaniali.pl](mailto:fundacja@mali-wspaniali.pl).
14. Providing personal data is not mandatory, however, it is necessary to use the Platform.
15. The consent for the use of the image of the child/children as well as the consent for the marketing activities is neither mandatory and nor results in the impossibility of using the Platform.

16. All other information concerning data processing by the Controller through the intermediary of the Application/Platform has been set out in detail in the Privacy Policy.

## **§6**

### **OTHER INFORMATION**

1. The Foundation informs that at the following URL:  
<https://webgate.ec.europa.eu/odr/main/index.cfm?event=main.home.show&lng=PL>,  
there is available an on-line Platform/Application for the resolution of disputes concerning contractual obligations arising from on-line sales agreements or service agreements between consumers residing in the European Union and traders established in the European Union (ODR platform).
2. The Foundation informs that it does not use alternative dispute resolution (out-of-court manners of handling complaints and claims) and does not undertake to use such redress mechanisms, unless such an obligation arises from the mandatory law provisions.
3. The Foundation informs that the User who is a consumer may obtain a free assistance in resolving a dispute between such the User and the Foundation, while addressing the aforementioned issue to the district (municipal) Consumer Ombudsman or a social consumer organisation, which statutory tasks include the protection of consumers (such as the Federation of Consumers, Association of Polish Consumers).



## APPENDIX NO. 1 TO THE TERMS AND CONDITIONS

### Model statement of a resignation from the use of the Platform/Application

Addressee: FUNDACJA MALI WSPANIALI, ul. Ślężna 2-24; 53- 302 Wrocław, Poland

e-mail address: fundacja@mali-wspaniali.pl

I, ..... hereby inform You of my resignation from the use of the Mali

(first name and surname)

Wspaniali Platform.

Address of kindergarten ..... group no.  
(optionally) .....

e-mail	address	–	User's	login
.....				

.....

.....

Date of statement and locality

Legible signature