

Terms of service - App and Sites users

Important information and who we are

These are the terms of supply for services provided through our websites (Sites) and through any mobile application we provide (App). The Sites and App are operated by or on behalf of FLX Health Ltd (we, us and our). We are a limited company, registered in England. Our registered company number is 12366748, and our registered office is at C4di At The Dock 31-38, Queen Street, Hull, England, HU1 1UU.

We have created the App to help users keep track of information about their self management and recovery, including for use in clinical studies and research projects and to share the data with the healthcare partners that are involved in their self management and/or developing new and existing technologies to improve healthcare. Our partners may include, for example, health professionals, research and pharmaceutical companies and medical device manufacturers.

We license use of the App and the services offered on the Sites and App (Services) to you on the basis of these terms and by using any Service you agree to be bound by them. Use of your personal information submitted to or via the Sites and App is governed by our Privacy Policy, which explains how we use your personal data. In addition, use of the App is subject to our End-User License Agreement (EULA) and you agree only to use the App in accordance with those terms. Your use of the App may also be subject to the terms or policies applied by any third-party providers or operator from whose Sites or platform you downloaded the App. We remain the owner of the App at all times. We may revise these terms from time to time and will notify you if we are making any significant changes. These Terms of Service for App and Sites users were last updated on 30 June 2020.

A separate and different set of terms of service may also apply to you where you are a business user or employee of a FLX Health customer.

Registering with us

You should only use this App if:

- your employer or healthcare professional has recommended you download and use the App as part of your self management process, or where you have been invited to use the App as

part of your involvement in a clinical study or research project, or where you have been referred to App by a charitable organisation;

- you agree to download and use the App in accordance with these terms;
- you agree to provide your email address and telephone number to your employer or healthcare professional and agree that it can be shared with us to the extent necessary to provide you with the Services; and
- you acknowledge that the App is intended for use only by persons who are at least 18 years of age. By using the App, you confirm to us that you meet this requirement and that, if you are under the age of 18, you have received permission from your parent or guardian before using the App.

After providing your email address and telephone number, you will receive an email with a link to download the App, as well as an SMS message containing your PIN code. Please do not share this PIN code with anyone else; it is for your personal use only.

Upon downloading the App, you must set up your account with us by completing the account registration form in the App. You will need to provide your name and email address, as well as the pin-code provided to you via an SMS. You only need to register once. You must provide us with accurate, complete and up-to-date information. You are responsible for the information you provide to us.

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Password

Upon registration for an account with us, you will be asked to create a password.

You must keep your password confidential at all times and use it only to access and use your account and not for any other purpose. You are the only authorised user of your account (unless expressly specified otherwise in the relevant Service description on our Sites and App) and, accordingly, you must not disclose your password to anyone else.

You should contact your *administrator* immediately upon discovering any unauthorised use of your account or error in the operation of your password (*see the 'Contacting us' section below for further details / your employer administrator*). Any breach of these terms and/or any use of your account by anyone to whom you disclose your password will be treated as if the breach or use had been carried out by you, and will not relieve you of your obligations to us.

The App does not provide medical advice

The App and Sites are provided for general information purposes only and do not provide medical advice. Any information on the App or the Sites is designed for self management and educational

material and should not be taken as a recommendation for treatment or medical advice of any particular person. Use of the App does not create a doctor-user relationship between us and you.

Although we try to personalise your experience by referring to possible individual circumstances, the App should never be relied upon as a substitute for professional medical advice, diagnosis or self management from a qualified health care professional familiar with your medical history, and should not be relied on to make decisions about your health. The App only handles MSK user-related data, which cannot be used to diagnose or prescribe treatments in your particular case. Only your surgeon, doctor or other healthcare professional can do that.

This App should not be relied upon as your sole means of contact or engagement with any healthcare professional. While using the App, you must continue to engage with the healthcare professionals responsible for your care in such manner as they direct. Where any part of the App is unavailable for any period of time you should continue to contact the healthcare professionals responsible for your care as usual and as necessary for your self management using other appropriate means. We accept no liability for your failure to do so.

Never ignore or delay professional medical advice because of something you have learned or seen using the App or Sites, this includes when you are sign posted in the FLX App to seek medical advice. As you continue to recover, you should continue being in touch with your employer or healthcare professional as instructed by them and should always consult them before taking or refraining from any action on the basis of the information you obtain from the App.

We are not responsible for any advice provided, whether through the App or otherwise, by your surgeon, doctor or any other healthcare professional.

To the best of our knowledge, the authors of any materials on the App and the Sites have formulated the information available with a reasonable standard of accuracy but such information has not been developed to meet your specific individual requirements. Except as expressly set out in these terms, we make or give no representation or warranty as to the accuracy, completeness, currency, correctness, reliability, integrity, quality, fitness for purpose or originality of any content of the Sites and, to the fullest extent permitted by law, all implied warranties, conditions or other terms of any kind are hereby excluded and we accept no liability for any loss or damage of any kind incurred as a result of you or anyone else using the Sites or relying on any of its content.

We are not responsible for any actions, decisions or recommendations of your employer healthcare professionals or the administrators of any research projects or clinical studies you are involved in. We are not a registry, and as such, we do not review, and are not required to review, the data

received through the App from you, your surgeon, doctor, other healthcare professionals or the administrators of any research projects or clinical studies you are involved in.

Changes to the service

As it is our policy continually to review and update the services we offer through the App, and we reserve the right to make changes to the App, the Sites and/or to these terms from time to time.

Service suspension & termination

We may, from time to time, with or without prior notice, temporarily suspend the operation of any service and/or any part of the Sites/App (in whole or in part) for repair or maintenance work or in order to update or upgrade any contents, features or functionality. Where the App is unavailable for any period of time, you should continue to contact your surgeon, doctor (or other medical professional responsible for your care) and the administrators of any clinical studies or research projects you are participating in via the App, as usual and as necessary for your self management or research participation, using other appropriate means. You should not rely on this App as your sole means of contact with your surgeon, doctor or any other healthcare professional or researcher.

We may, with or without prior notice, terminate any contract between you and us (Contract) or suspend and/or terminate any Service and/or your use of your account in the event that you have breached any of these terms.

We maintain the right to withdraw your ability to use the App at any time, if we understand, after consultation with your surgeon, doctor or other healthcare professional or the administrators of a clinical study or research project in which you are involved, that the App may no longer be suitable for your self management needs. You agree to cease using the App where you are advised by your surgeon, doctor or other healthcare professional that it is no longer suitable for you to use.

If you have breached these terms, we may take such action as we deem appropriate. Such a breach by you may result in our taking, with or without notice, all or any of the following actions:

- issue of a warning to you;
- immediate, temporary or permanent removal of any content submitted by you;
- immediate, temporary or permanent withdrawal of your right to use any Service;
- legal proceedings against you for reimbursement of all recoverable loss and damage resulting from the breach; and/or
- disclosure of all relevant information to law enforcement authorities as we reasonably feel is necessary.

The rights described above are cumulative and are not limited, and we may take any other action we deem appropriate.

Upon termination of any Contract or Service or your account, for any reason:

- all rights granted to you under these terms will immediately cease;
- you must promptly discontinue all use of the App and delete or remove the App from all devices in your possession;
- it is your responsibility to contact your employer and healthcare professional with whom you are connected through the App to inform them that you are no longer contactable through the App;

Access to the App and our Sites

By accessing the App and/or Sites, you agree to be bound by the terms of our Privacy Policy.

We cannot guarantee the continuous, uninterrupted or error-free operability of our Sites or App. There may be times when certain features, parts or content of the Sites or App, or the entire Sites or App, become unavailable (whether on a scheduled or unscheduled basis) or are modified, suspended or withdrawn by us, in our sole discretion, without notice to you.

You agree that we will not be liable to you or to any third-party for any unavailability, modification, suspension or withdrawal of the Sites and App, or any features, parts or content of the Sites and App.

The App connects to services via the internet via your third-party internet services provider or mobile services provider's network and a stable internet connection is required to access our services. You acknowledge and agree that we are not responsible for any unavailability of the internet, connection quality issues, service interruption or diminished functionality in the App or on the Sites which you may experience as a result of any such unavailability of any part of the internet or issue with your device's internet connectivity.

What you are allowed to do

You may only use the Sites and App for non-commercial use (unless expressly granted permission to do otherwise by us) and only in accordance with these terms. You may retrieve and display content from the Sites and App on a computer screen, print and copy individual pages and, subject to the next section, store such pages in electronic form.

Additional terms may also apply to certain features, parts or content of the Sites and App and, where they apply, will be displayed on-screen or accessible via a link.

What you are not allowed to do

Except to the extent expressly set out in these terms, you are not allowed to:

- 'scrape' content or store content of the Sites or the App on a server or other storage device connected to a network or create an electronic database by systematically downloading and storing all of the content of the Sites or App;
- submit any content to the App or Sites which is false, misleading or fraudulent or which could be considered defamatory, offensive or otherwise objectionable;
- remove or change any content of the Sites or App or attempt to circumvent security or interfere with the proper working of the Sites or App or the servers on which the Sites or App is hosted;
- republish, redistribute, reverse-engineer or re-transmit the App or the Sites, and/or any of the content made available on the App or the Sites; or
- otherwise do anything that is not expressly permitted by these terms.

You must only use the App, Sites and anything available from the Sites for lawful purposes (complying with all applicable laws and regulations), in a responsible manner, and not in a way that might damage our name or reputation or that of any of our affiliates, employees, agents or representatives.

All rights granted to you under these terms will terminate immediately in the event that you are in breach of any of them.

Intellectual property rights

You acknowledge that all intellectual property rights in any content of the Sites and App (including text, graphics, software, photographs and other images, videos, sound, trade marks and logos) are owned by us or our licensors.

Except as expressly set out here, nothing in these terms gives you any rights in respect of any intellectual property owned by us or our licensors and you acknowledge that you do not acquire any ownership rights by downloading content from the Sites or App. In the event you print off, copy or store pages from the Sites or App (only as permitted by these terms), you must ensure that any copyright, trade mark or other intellectual property right notices contained in the original content are reproduced.

Your grant of Licence to Us in respect of all content you submit: By uploading or submitting any content and materials to the App (User Content), you agree to grant us a worldwide, perpetual, non-exclusive and royalty-free licence (with the right to sub-license) to use, reproduce, adapt, publish and re-distribute such User Content in whole or in part without compensation to you (in accordance with our Privacy Policy). We may, in our sole discretion, choose to attribute such User Content to you.

Sites features & content

We may change the format, features and content of the Sites and App from time to time. You agree that your use of the Sites and App is on an 'as is' and 'as available' basis and at your sole risk.

Whilst we try to make sure that content on the Sites and App consists of information which we reasonably believe to be correct and accurate, you acknowledge that the Sites and App may make content available which is derived from a number of sources for which we are not responsible. In all cases, information on the Sites and App is not intended to amount to authority or advice on which reliance should be placed. You should check with us or the relevant information source before acting on any such information.

Whilst we take reasonable steps to ensure that the App, the Sites and content available via them is free of malware and viruses, we cannot and do not guarantee that any content on the Sites or App will be free from viruses and/or other code that may have contaminating or destructive elements. It is your responsibility to implement appropriate IT security safeguards (including anti-virus and other security checks) to satisfy your particular requirements as to the safety and reliability of content you access through our services.

External links

The Sites and App may, from time to time, include links to external sites, which may include links to third-party offers and promotions. We include these to provide you with access to information, products or services that you may find useful or interesting. We are not responsible for the content of these Sites or for anything provided by them and do not guarantee that they will be continuously available. The fact that we include links to such external Sites does not imply any endorsement of or association with their operators or promoters.

Our liability to you

Other terms may apply: Where you obtain products or services from us, the supply of such products is subject to our standard terms of use and may also be subject to other terms of sale as notified to you, which may contain different limitations and exclusions of liability and which supersede the terms set out below, insofar as any liability arising out of the supply of such products is concerned.

We do not exclude or limit in any way our liability to you where it would be unlawful to do so:

Nothing in these terms shall limit or exclude our liability to you:

- for death or personal injury caused by our negligence or the negligence of our employees;
- for fraud or fraudulent misrepresentation or misrepresentation as to a fundamental matter;
- for breach of any term implied by the Consumer Rights Act 2015 and which, by law, may not be limited or excluded; or
- for any other liability that, by law, may not be limited or excluded.

Financial limitation: Except for in respect of the matters listed in the paragraph above setting out where we do not limit or exclude our liability to you, our maximum aggregate liability in contract, tort (including our negligence or breach of statutory duty) or otherwise for any breach of these terms (or series of related events of default) shall not exceed the greater of either: (i) 100% of the total fees paid or payable by you to access any of the Services in the preceding twelve months; or (ii) £100.

We are responsible to you for foreseeable loss and damage caused by us. Subject to the financial limitation above, if we fail to comply with these terms, we are responsible for reasonable loss or damage you suffer that is foreseeable as a result of any negligent act or omission which breaches these terms or our failing to use reasonable care and skill, but we are not responsible for any loss or damage that is not foreseeable. Loss or damage is “foreseeable” if either it is obvious that it will happen or if, at the time you accepted these terms, both we and you knew it might happen.

Where we are liable for damage to your property: Subject to the financial limitation above, if defective digital content that we have supplied damages a device or digital content belonging to you, and such damage is caused by our failure to use reasonable care and skill, we will either repair the damage or pay you compensation. However, we will not be liable for damage that you could have avoided by following our advice to apply an update offered to you free of charge or for damage that was caused by you failing to correctly follow installation instructions or to have in place any minimum system requirements advised by us.

We are not responsible for events outside of our control: We will not be liable or responsible for any failure to perform, or delay in performance of, any of our obligations that is caused by events outside our reasonable control. If our provision or support for the App is delayed by an event

outside of our control then we will contact you by email as soon as possible to let you know that we will take steps to minimise the effect of the delay. Provided we do this we will not be liable for delays caused by such event.

No agency: No agency, partnership, joint venture, employment relationship or franchise relationship is intended or create between you and use as a result of your use of the Services or by you entering into any agreement with us to buy our products or services.

We are not responsible for business losses suffered by consumers: The App is made available to Users exclusively for domestic, private and personal use to support their recovery journey. You agree not to use the App or our Sites for any commercial, business or resale purposes and, where you do, we will have no liability to you for any loss of profit, loss of business, business interruption or loss of business opportunity.

We are not liable for self management advice you receive: We are not affiliated to, nor are we an agent of your employer other healthcare professional and are not liable for any advice given to you by other healthcare professionals.

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How you should contact us: All notices given by you to us must be given in writing to the address set out at the end of these terms. We may give notice to you at the email address you provide to us.

Even if we delay in enforcing this contract, we can still enforce it later: If we fail to enforce any of our rights, that does not result in a waiver of that right. If we do not insist immediately that you do anything you are required to do under these terms, or if we delay in taking steps against you in respect of your breach of this contract, this will not mean that you do not have to do those things and it will not prevent us taking action against you at a later date.

If a court finds part of this agreement illegal, the rest will continue in force: If any provision of these terms is found to be unenforceable, all other provisions shall remain unaffected.

You may not vary these terms: These terms may not be varied except with our express written consent.

This is the entire agreement between us: These terms and any document expressly referred to in them represent the entire agreement between you and us in relation to the subject matter of any

Contract. We are required by law to advise you that contracts may be concluded in the English language only and that no public filing requirements apply.

We may transfer this agreement to someone else: We may transfer our rights and obligations under these terms to another organisation. We will always tell you in writing by email if this happens and we will ensure that the transfer does not affect your rights under this agreement.

You may not transfer your rights to someone else: We are giving you personally the right to use the App as set out in these terms. You may not transfer your rights or obligations under these terms to another person without our prior written agreement. You agree that if you sell any device on which the App is installed, you must remove the App from it.

No rights for third-parties: You may not share the Services with any other person and this agreement does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this agreement.

Which laws apply to this agreement and where you may bring legal proceedings: These terms shall be governed by English law.

You agree that any dispute between you and us regarding these terms or any Contract will only be dealt with by the English courts, except that if you live in a jurisdiction which provides you with inalienable rights as a matter of mandatory local law, you can choose to bring legal proceedings either in your country or in England, but if we bring legal proceedings, we may only do so in your jurisdiction.

The European Online Dispute Resolution platform provides information about alternative dispute resolution which may be of interest, although this may not be applicable to these terms should the United Kingdom leave the European Union.

Contacting us

Please submit any questions you have about these terms or an order you have placed or ordering in general, or any complaint or concern in relation to any Service ordered by email to support@FLX.health or write to us at: C4di At The Dock 31-38, Queen Street, Hull, England, HU1 1UU.