

## FLUID FOCUS APP - TERMS OF USE

### 1. PLEASE READ THESE LICENCE TERMS CAREFULLY

YOU AGREE TO THESE TERMS, WHICH WILL BIND YOU, FROM THE TIME THAT YOU DOWNLOAD AND USE THE APP, OR WHEN YOU CLICK ON THE “ACCEPT” BUTTON REGARDING THESE TERMS – WHICHEVER COMES EARLIER.

IF YOU DO NOT AGREE TO THESE TERMS, YOU DO NOT HAVE PERMISSION TO USE THE APP, THE DOCUMENTATION OR THE SERVICES SO YOU MUST NOT DOWNLOAD THE APP, OR MUST CLICK ON THE “REJECT” BUTTON AND DELETE THE APP.

WE DO NOT KNOWINGLY COLLECT PERSONAL DATA FROM CHILDREN UNDER THE AGE OF 13. IF YOU HAVE REASON TO BELIEVE THAT A CHILD UNDER THE AGE OF 13 HAS USED OUR SERVICE AND PROVIDED PERSONAL DATA TO US, PLEASE CONTACT US, AND WE WILL WORK TO DELETE THAT INFORMATION FROM OUR DATABASES. IF YOU ARE A PARENT OR GUARDIAN AND YOU BELIEVE WE HAVE COLLECTED INFORMATION FROM YOUR CHILD IN A MANNER NOT PERMITTED BY LAW, [CONTACT US](#). WE ARE NOT LIABLE FOR ANY DAMAGES THAT MAY RESULT FROM A VISITOR’S MISREPRESENTATION OF AGE.

IF WE BELIEVE YOU ARE UNDERAGE OR HAVE (OR ANYONE ELSE HAS) MISREPRESENTED YOUR AGE OR CONSENT FOR YOU TO USE THE APP, WE WILL REVOKE ACCESS TO THE SERVICES AND DELETE ALL INFORMATION RELATING TO YOU FROM OUR SYSTEM (WITHOUT NOTICE AND WITHOUT LIABILITY).

### 2. WHO WE ARE AND WHAT THESE TERMS DO

We are Fluid Focus Ltd (company no. 14337365, of address c/o Innovation Northumbria: Incubator, 115 New Bridge, Newcastle Upon Tyne, England, NE1 8ST) (**Fluid Focus, we, us and our**). Provided that you meet and comply with the requirements set out in the Terms of Use, we license you to use:

- Fluid Focus mobile application software, the data supplied with the software and any updates or supplements to it (**App**);
- the related documentation supplied online or as part of the App (**Documentation**);
- the services you may connect to via the App and the content provided to you through it/them (each, being a **Service**),

as permitted in these terms.

### 3. YOUR PRIVACY

Under data protection legislation, we are required to provide you with certain information including who we are, how we process your personal data and for what purposes and your rights in relation to your personal data and how to exercise them. This information is provided in our Privacy Policy, available here: <https://www.fluidfocus.app/our-privacy-policy>, and it is important that you read that information.

### 4. WE ARE NOT RESPONSIBLE FOR OTHER WEBSITES YOU LINK TO

The App or any Service may contain links to other independent websites which are not provided by us. Such independent sites are not under our control, and we are not responsible for and have not checked and approved their content or their privacy policies (if any).

You will need to make your own independent judgement about whether to use any such independent sites, including whether to buy any products or services offered by them.

## **5. THIRD PARTY PRODUCTS & SERVICES**

The App and Services allow you to interact with third parties through our store function, and you will also see marketing material which we host on behalf of third parties. We are not responsible for use of any personal data you give to third parties, nor for the content of any marketing materials displayed on the Fluid Focus App, nor for any other interaction you have with such third parties or their products or services (including any claims or contracts made by or with them).

We do not make any endorsement of the products and/or services which are mentioned on our App, its store or the Services, and you agree not to take any action against us if your interaction with such third parties or their products or services cause you or any other person injury or damages.

## **6. PRIZE DRAWS**

From time to time, Fluid Focus may offer you the chance to enter into a prize draw. Entry to the Competition is free. No monetary purchase is necessary to enter or win. Void where prohibited. Entry into the contest accounts for your acceptance of the competition rules. Entries into the prize draws will be open for a defined period. The Giveaway is open to all users of the Fluid Focus app who are 13 years or older at the time of entry, however those under 16 years of age will not be eligible for cash prizes (an alternative wellness voucher will be provided to those aged 13-16).

The prize is non-exchangeable & non-transferable. Each prize draw will be subject to our general prize draw terms. Additionally, we hold the right to reward winners located outside of the UK & Ireland in the cash-equivalent amount of the prize draw for that week, in wellness brand vouchers of our choosing. We do not commit to sending cash, either physically or virtually, to winning individuals outside of the UK & Ireland.

## **7. NON-GAMBLING DISCLAIMER**

Fluid Focus prize draws do not constitute gambling, betting, or gaming within the meaning of applicable gambling legislation. Entry to prize draws is facilitated solely through the use of "Fluid Coins," an in-app, fictional currency with no cash or real-world value, which cannot be purchased, sold, transferred, or exchanged for money or monetary equivalents. Fluid Coins can only be earned through specific, non-monetary engagement activities within the Fluid Focus app and cannot be acquired through purchase or wager. As no monetary consideration, risk, or purchase is required or permitted for entry, the prize draw is exempt from gambling, betting, and gaming laws, rules, and regulations.

## **8. APP STORE TERMS**

The ways in which you can use the App may also be controlled by the app store used to download the App. The rules and policies of the relevant app store will also apply to your use of the App, their rules and policies will apply instead of Our Terms where there are differences between the two. The relevant policies are:

<b>Service</b>	<b>Web address of terms of use</b>	<b>Web address of privacy policy</b>
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Apple App Store	<a href="https://www.apple.com/uk/legal/internet-services/itunes/uk/terms.html">https://www.apple.com/uk/legal/internet-services/itunes/uk/terms.html</a>	<a href="https://www.apple.com/uk/legal/privacy/en-ww/">https://www.apple.com/uk/legal/privacy/en-ww/</a>
Google Play Store	<a href="https://play.google.com/intl/en_uk/about/play-terms/index.html">https://play.google.com/intl/en_uk/about/play-terms/index.html</a>	<a href="https://policies.google.com/privacy">https://policies.google.com/privacy</a>

## 9. OPERATING SYSTEM REQUIREMENTS

This app requires a mobile or handheld device and an operating system capable of running the latest version of the App (on Android or iOS) and with access to the internet through mobile data and/or Wi-Fi.

## 10. ACCESSING OUR APP

Our App is made available free of charge. We do not guarantee that our App will always be available or be uninterrupted. Access to our App is permitted on a temporary basis. We may suspend, withdraw, discontinue or change all or any part of our App without notice. We will not be liable to you if for any reason our App is unavailable at any time for any period.

You are responsible for making all arrangements necessary for you to have access to our App. You are also responsible for ensuring that all persons who access our App on any device you control is aware of these terms of use and comply with it.

## 11. SUPPORT FOR THE APP AND HOW TO TELL US ABOUT PROBLEMS

If you want to learn more about the App or the Service or have any problems using them please email us at [help@fluidfocus.app](mailto:help@fluidfocus.app) or take a look at our support resources available in the “How to / Guidance” section within the App.

If you think the App or the Services are faulty or misdescribed or wish to contact us for any other reason please email our customer service team at [help@fluidfocus.app](mailto:help@fluidfocus.app).

If we have to contact you we will do so by email, using the contact details you have provided to us.

## 12. HOW YOU MAY USE THE APP

In return for your agreeing to comply with these terms, you may:

- download a copy of the App onto any number of mobile telephone or handheld devices and view, use and display the App and the Service on such devices for your personal purposes only;
- use any Documentation to support your permitted use of the App and the Service; and
- receive and use any free supplementary software code or update of the App incorporating “patches” and corrections of errors as we may provide to you.

You accept that the App will track your usage of your mobile device including how much time is spent using other applications and features. It may also block notifications and other device and application features when authorised and applied through our App. We will not, however, have access to this data. All of this data will be held locally on your device, visible only to you. More information on how this impacts your personal data is contained in our Privacy Policy, available here: <https://www.fluidfocus.app/our-privacy-policy>.

### **13. YOU MAY NOT TRANSFER THE APP TO SOMEONE ELSE**

We are giving you personally the right to use the App and the Service as described in these Terms and the Documentation. You may not transfer the App or the Service or anything else earned or received through the App or Services (including, without limit, the Fluid Coins earnable through correct use of the App or anything exchanged or rewarded in return for those Fluid Coins) to someone else, whether for money, for anything else or for free. If you sell any device on which the App is installed, you must remove the App from it.

### **14. CHANGES TO THESE TERMS**

We may need to change these terms to reflect changes in law or best practice or to deal with additional features which we introduce.

We will give you notice of any change by notifying you of a change when you next start the App.

If you do not accept the notified changes you will not be permitted to continue to use the App and the Service.

### **15. UPDATE TO THE APP AND CHANGES TO THE SERVICE**

The App will match the description of it provided to you when you downloaded it.

From time to time we may automatically update the App and change the Service to improve performance, enhance functionality, reflect changes to the operating system, address security issues or make any other changes we deem appropriate. Alternatively, we may ask you to update the App for these reasons.

If you choose not to install such updates or if you opt out of automatic updates you may not be able to continue using the App and the Services.

In order to receive the best performance, it is suggested to access the App on the latest version of your phone's operating system which is available. We cannot guarantee that the App will work with any older version of your phone's operating system.

### **16. IF SOMEONE ELSE OWNS THE PHONE OR DEVICE YOU ARE USING**

If you download or stream the App onto any phone or other device not owned by you, you must have the owner's permission to do so. You will be responsible for complying with these terms, whether or not you own the phone or other device.

### **17. LICENCE RESTRICTIONS**

You agree that you will:

- not rent, lease, sub-license, loan, provide, or otherwise make available, the App or the Services in any form, in whole or in part to any person without prior written consent from us;
- not copy the App, Documentation or Services, except as part of the normal use of the App or where it is necessary for the purpose of back-up or operational security;
- not translate, merge, adapt, vary, alter or modify, the whole or any part of the App, Documentation

or Services nor permit the App or the Services or any part of them to be combined with, or become incorporated in, any other programs, except as necessary to use the App and the Services on devices as permitted in these terms;

- comply with all applicable technology control or export laws and regulations that apply to the technology used or supported by the App or any Service;
- not disassemble, de-compile, reverse engineer or create derivative works based on the whole or any part of the App or the Services nor attempt to do any such things, except to the extent that (by virtue of sections 50B and 296A of the Copyright, Designs and Patents Act 1988) such actions cannot be prohibited because they are necessary to decompile the App to obtain the information necessary to create an independent program that can be operated with the App or with another program (**Permitted Objective**), and provided that the information obtained by you during such activities:
  - o is not disclosed or communicated without our prior written consent to any third party to whom it is not necessary to disclose or communicate it in order to achieve the Permitted Objective; and
  - o is not used to create any software that is substantially similar in its expression to the App;
  - o is kept secure; and
  - o is used only for the Permitted Objective.

## **18. ACCEPTABLE USE RESTRICTIONS**

You must:

- not use the App or any Service in any unlawful manner, for any unlawful purpose, or in any manner inconsistent with these terms, or act fraudulently or maliciously, for example: by manipulating or mis-representing your past or current usage/non-usage of other apps; or by hacking into or inserting malicious code, such as viruses, or harmful data, into the App, any Service or any operating system;
- not infringe our intellectual property rights or those of any third party in relation to your use of the App or any Service, including by the submission of any material (to the extent that such use is not licensed by these terms);
- not transmit to us or anyone else any material that is defamatory, offensive or otherwise objectionable in relation to your use of the App or any Service;
- not use the App or any Service in a way that could damage, disable, overburden, impair or compromise our systems or security or interfere with other users; and
- not collect or harvest any information or data from any Service or our systems or attempt to decipher any transmissions to or from the servers running any Service.

## **19. THIRD PARTY INTEGRATIONS**

We may partner with third parties to provide additional features integrated into our App. You may be required to agree and adhere to third party terms where you access any application that integrates with our Service, or whether the third party requires you to agree terms to access the Services on their behalf.

We do not control such third parties or sites, services or resources provided by third parties, or the content, messages or information found in or on or accessible through them or integrated with the Services. We disclaim and will have no liability regarding such sites and any actions resulting from your use of the same. The availability of such sites or services on or through our Services does not mean we endorse, support or warrant such sites, resources or services.

## **20. INTELLECTUAL PROPERTY RIGHTS**

All intellectual property rights in the App, the Documentation and the Services throughout the world belong to us (or our licensors) and the rights in the App and the Services are licensed (not sold) to you. You have no intellectual property rights in, or to, the App, the Documentation or the Services other than the right to use them in accordance with these terms.

## **21. OUR RESPONSIBILITY FOR LOSS OR DAMAGE SUFFERED BY YOU**

We do not exclude or limit in any way our liability to you where it would be unlawful to do so. This includes liability for death or personal injury caused by our negligence or the negligence of our employees, agents or subcontractors or for fraud or fraudulent misrepresentation.

We are only responsible to you for loss and damage caused by us that is a foreseeable result of our breaking 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.

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 the minimum system requirements advised by us.

We are not liable for business losses. The App is for domestic and private use. If you use the App for any commercial, business or resale purpose we will have no liability to you for any loss of profit, loss of business, business interruption, or loss of business opportunity and our liability to you for anything arising in connection with these Terms, the App, the Services or any breach of legal obligation shall otherwise be limited to £50.

The App and the Services are provided for general information and entertainment purposes only. They do not offer advice on which you should rely. You must obtain professional or specialist advice before taking, or refraining from, any action on the basis of information obtained from the App or the Service (including making your own investigations on any of the wellness services offered through or in connection with the App such as meditation and breathing programmes). We also may make some resources and contact details available from mental health charities, but we do not carry out any monitoring or recommendations and we will not be responsible to you or anyone else for any of the information provided by any third party.

Although we make reasonable efforts to update the information provided by the App and the Service, we make no representations, warranties or guarantees, whether express or implied, that such information is accurate, complete or up to date.

We recommend that you back up any content and data used in connection with the App, to protect yourself in case of problems with the App or the Service. Please note that we do not back-up your data.

Check that the App and the Services are suitable for you. The App and the Services have not been developed to meet your individual requirements. Please check that the facilities and functions of the App and the Services (as described in these Terms, on the app store site and in the Documentation) meet your requirements.

We are not responsible for events outside our control. If our provision of the Services or support for the App or the Services is delayed by an event outside our reasonable control then we will contact you as soon as possible to let you know and we will take steps to minimise the effect of the delay. Provided we

do this we will not be liable for delays caused by the event.

## **22. WE MAY END YOUR RIGHTS TO USE THE APP AND THE SERVICES IF YOU BREAK THESE TERMS**

We may end your rights to use the App and Services, by contacting you or by remotely disabling the operation of any of the Services, at any time at our sole discretion, including if we believe you are underage, you have misrepresented your age, you have abused the functionality of the App or Services, or if you have broken these terms in a serious way. If what you have done can be put right we will give you a reasonable opportunity to do so.

If we end your rights to use the App and Services:

- You must stop all activities authorised by these terms, including your use of the App and any Services.
- You must delete or remove the App from all devices in your possession and immediately destroy all copies of the App which you have and confirm to us that you have done this.
- We may remotely access your devices and remove the App from them and cease providing you with access to the Services.
- You will not be entitled to any refund, compensation, payment for any Fluid Coins you had accrued at the time, or be entitled to use any of the codes or other items for which those Fluid Coins can be exchanged which you had not yet redeemed or used outside of the App.

## **23. 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 if this happens and we will ensure that the transfer will not affect your rights under the contract.

## **24. YOU NEED OUR CONSENT TO TRANSFER YOUR RIGHTS TO SOMEONE ELSE**

You may only transfer your rights or your obligations under these terms to another person if we agree in writing.

## **25. NO RIGHTS FOR THIRD PARTIES**

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.

## **26. IF A COURT FINDS PART OF THIS CONTRACT ILLEGAL, THE REST WILL CONTINUE IN FORCE**

Each of the paragraphs of these terms operates separately. If any court or relevant authority decides that any of them are unlawful, the remaining paragraphs will remain in full force and effect.

## **27. EVEN IF WE DELAY IN ENFORCING THIS CONTRACT, WE CAN STILL ENFORCE IT LATER**

Even if we delay in enforcing this contract, we can still enforce it later. 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 breaking this contract, that will not mean that you do not have to do those things and it will not prevent us taking steps against you at a later date.

## **28. WHICH LAWS APPLY TO THIS CONTRACT AND WHERE YOU MAY BRING LEGAL PROCEEDINGS**

These terms are governed by English law and you can bring legal proceedings in respect of the products in the English courts. If you live in Scotland you can bring legal proceedings in respect of the products in either the Scottish or the English courts. If you live in Northern Ireland you can bring legal proceedings in respect of the products in either the Northern Irish or the English courts.

## **29. COMPLAINTS**

If you have any concerns regarding the App we hope we can resolve these quickly if you contact us at [help@fluidfocus.app](mailto:help@fluidfocus.app). If you are not happy with how we have handled any complaint, you may want to contact an alternative dispute provider. If you are not satisfied with the outcome you can still bring legal proceedings.