

# **FOODWISE IN PREGNANCY**

## **MOBILE APPLICATION END-USER LICENCE AGREEMENT AND IMPORTANT LEGAL INFORMATION**

### **PLEASE READ THESE AGREEMENT TERMS CAREFULLY**

BY CLICKING ON THE "ACCEPT" BUTTON BELOW YOU AGREE TO THESE TERMS WHICH WILL BIND YOU.

IF YOU DO NOT AGREE TO THESE TERMS, CLICK ON THE "REJECT" BUTTON BELOW.

#### **1. WHO WE ARE AND WHAT THIS AGREEMENT DOES**

1.1 We, CARDIFF AND VALE UNIVERSITY HEALTH BOARD of Heath Park, Cardiff, CF14 4XW license you to use:

- FOODWISE IN PREGNANCY (part of Nutrition Skills for Life™) APP (version 1.0.1) mobile application software, the data supplied with the software, (**App**) and any updates or supplements to it.
- The service you connect to via the App and the content we provide to you through it (**Service**).

as permitted in these terms.

1.2 This Agreement starts when you download the App.

#### **2. IMPORTANT SAFETY INFORMATION**

2.1 The App is intended to support women to eat well, be active and achieve a healthy weight gain during pregnancy. It includes advice and guidance on how to achieve a healthy, balanced diet, exercises that are suitable during pregnancy to promote physical activity and techniques to help individuals to make behaviour changes that are right for them. The App is especially helpful alongside the Foodwise in Pregnancy 6 weeks healthy lifestyle programme, delivered throughout Wales.

2.2 The information in this App should ideally be used as a reference alongside advice received from a registered healthcare professional such as a midwife, health visitor or dietitian. Whilst the App content has been written by registered NHS dietitians, if you are concerned about your weight, or have specific dietary requirements, for example, for medical reasons, you should also seek advice from your midwife or health visitor, who can refer you to dietetic services if needed.

2.3 The exercises in this App have been devised under the advice of a specialist pelvic health physiotherapist and are safe for most women during pregnancy. If you are not used to exercising prior to pregnancy you should speak to your midwife or health visitor before attempting the exercises in this App.

- 2.4 All forms of exercise pose some inherent risks, particularly exercise done independently without individualised supervision from a qualified fitness trainer or healthcare professional. Due to the nature of video instruction, we advise you to take full responsibility for your safety and to know your personal limits. **Stop exercising if you experience faintness, dizziness, pain, or shortness of breath.** By participating in the exercises, you agree that you are voluntarily participating in the exercises and you do so at your own risk.
- 2.5 This App may not be suitable for women with, or with a past history, of eating disorders. If you have an eating disorder or have previously had an eating disorder, you should speak to your GP or Healthcare Professional for advice on its suitability before using this App.
- 2.6 **Medical device statement.** In line with The Medicines and Healthcare Products Regulatory Agency guidance and health sector best practice, this App has been classified in the lesser e-health system (NHS SCCI 0129) category and is not classified as a medical device (ISO14971).

### **3. YOUR PRIVACY**

- 3.1. 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 Notice which can be found at <https://cavuhb.nhs.wales/files/privacy-policy/patient-privacy-notice-1-1-pdf/> and it is important that you read that information. We only use any personal data we collect through your use of the App and the Service in the ways set out in our privacy policy.
- 3.2. by using the App or any Service, you acknowledge and agree that internet transmissions are never completely private or secure. You understand that any message or information you send using the App or any Service may be read or intercepted by others, even if there is a special notice that a particular transmission is encrypted.

### **4. APP STORE AND GOOGLE PLAY'S TERMS ALSO APPLY**

The ways in which you can use the App may also be controlled by the App Store and Google Play's rules and policies <https://www.apple.com/uk/legal/privacy/en-ww/> <https://www.apple.com/compliance/> <https://play.google.com/about/play-terms/index.html> and the App Store or Google Play's rules and policies will apply instead of these terms where there are differences between the two.

### **5. OPERATING SYSTEM REQUIREMENTS**

This App requires an Apple or Android smartphone or tablet device with a minimum of approximately 200MB of memory and the latest operating system for iOS and Android operating system. iOS 12.0 or later.

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

- 6.1 **SUPPORT.** If you want to learn more about the App or the Service or have any problems using them please take a look at our web support page at <https://nutritionskillsforlife.com/app-support> or our support resources at [www.nutritionskillsforlife.co.uk](http://www.nutritionskillsforlife.co.uk) or use the email address provided on these websites.

6.2 **CONTACTING US (INCLUDING WITH COMPLAINTS).** If you think the App or the Service are faulty or misdescribed or wish to contact us for any other reason please email us using the email address provided on the websites listed at clause 6.1

6.3 **HOW WE WILL COMMUNICATE WITH YOU.** If we have to contact you we will do so by email, by SMS or by pre-paid post, using the contact details you have provided to us.

**7. HOW YOU MAY USE THE APP, INCLUDING HOW MANY DEVICES YOU MAY USE IT ON**

In return for your agreeing to comply with these terms you may download or stream a copy of the App onto 1 Apple or Android smartphone or tablet and view, use and display the App and the Service on such devices for your personal purposes only.

**8. YOU MUST BE 18 TO ACCEPT THESE TERMS AND BUY THE APP**

You must be 18 or over to accept these terms and download the App.

**9. YOU MAY NOT TRANSFER THE APP TO SOMEONE ELSE**

We are giving you personally the right to use the App and the Service as set out above in clause 7 (How you may use the App, including how many devices you may use it on). You may not transfer the App or the Service 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 the device.

**10. CHANGES TO THESE TERMS**

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

10.2 We will give you at least 30 days' notice of any change by sending you an SMS with details of the change or notifying you of a change when you next start the App.

10.3 If you do not accept the notified changes you may continue to use the App and the Service in accordance with the existing terms but certain new features may not be available to you or you may be exposed to security vulnerabilities.

**11. UPDATE TO THE APP AND CHANGES TO THE SERVICE**

11.1 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 or address security issues. Alternatively, we may ask you to update the App for these reasons.

11.2 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 Service.

11.3 The App will always work with the current or previous version of the operating system (as it may be updated from time to time) and match the description of it provided to you when you bought it.

**12. 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.

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

13.1 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).

13.2 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.

### **14. LICENCE RESTRICTIONS**

You agree that you will:

- not rent, lease, sub-license, loan, provide, or otherwise make available, the App or the Service in any form, in whole or in part to any person without prior written consent from us;
- not copy the App or Service, 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 or Service nor permit the App or the Service 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 Service on devices as permitted in these terms;
- not disassemble, de-compile, reverse engineer or create derivative works based on the whole or any part of the App or the Service 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:
  - 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
  - is not used to create any software that is substantially similar in its expression to the App;
  - is kept secure; and
  - is used only for the Permitted Objective;
- 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.

### **15. 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 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 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.

## **16. INTELLECTUAL PROPERTY RIGHTS**

- 16.1 All intellectual property rights in the App and the Service throughout the world belong to us and the rights in the App and the Service are licensed (not sold) to you. You have no intellectual property rights in, or to, the App, or the Service other than the right to use them in accordance with these terms.
- 16.2 You acknowledge that you have no right to have access to the App in source-code form.

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

- 17.1 **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.
- 17.2 **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.
- 17.3 **Limitations to the App and the Service.** The App and the Service are provided for general information and entertainment purposes only. They do not offer medical 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. 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.
- 17.4 **Please back-up content and data used with the App.** 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.

17.5 **Check that the App and the Service are suitable for you.** The App and the Service have not been developed to meet your individual requirements. Please check that the facilities and functions of the App and the Service (as described on the Appstore site meet your requirements.

17.6 **We are not responsible for events outside our control.** The App relies on a number of things working properly to enable you to enjoy all of its features. Many of these, such as your internet connection, your device and the Appstore, are entirely outside of our control. Although we will do everything we reasonably can to resolve issues, we are not responsible to you if you are unable to use all or any part of the App due to a poor internet connection, faulty components in your device, Appstore failure or anything else that it would not be reasonable to expect us to control.

**18. WE MAY END YOUR RIGHTS TO USE THE APP AND THE SERVICE IF YOU BREAK THESE TERMS**

18.1 We may end your rights to use the App and Service at any time by contacting you 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.

18.2 If we end your rights to use the App and Service:

- You must stop all activities authorised by these terms, including your use of the App and any Service.
- 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.

**19. WE MAY TRANSFER THIS AGREEMENT TO SOMEONE ELSE**

We may transfer our rights and obligations under this Agreement to another organisation without your consent. We will always tell you in writing if this happens and we will ensure that you are not adversely affected as a result.

**20. 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.

**21. 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.

**22. 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.

**23. 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.

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

These terms are governed by the laws of England and Wales, as they are applied in Wales and you can bring legal proceedings in respect of the products in the courts of England and Wales. If you live in Scotland you can bring legal proceedings in respect of the products in either the Scottish or the English/Welsh 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/Welsh courts.