

FLEXION HEALTH & FITNESS LTD - TERMS & CONDITIONS

BACKGROUND:

These Terms and Conditions are the standard terms for the provision of services by Flexion Health & Fitness Ltd, who operate Flexion Fitness and The Change Plan website, as a limited company registered in England (company number 12066674), whose registered address is 47 Wharf Road, Ash Vale GU12 5AY.

1. Definitions and Interpretation

1.1 In these Terms and Conditions, unless the context otherwise requires, the following expressions have the following meanings:

“Business Day”	means any day other than a Saturday, Sunday or bank holiday;
“Calendar Day”	means any day of the year;
“Contract”	means the contract for the provision of Services, as explained in Clause 3;
“Month”	means a calendar month;
“Price”	means the price payable for the Services;
“Services”	means the services which are to be provided by Us to you as specified in your Order (and confirmed in Our Order Confirmation);
“Special Price”	means a special offer price payable for Services which We may offer from time to time;
“Order”	means your order for the Goods or Services
“Order Confirmation”	means Our acceptance and confirmation of your Order as described in Clause 3;
“We/Us/Our”	means Flexion Health & Fitness Ltd, who operate this website a limited company registered in England (company number 12066674), whose registered address is 47 Wharf Road, Ash Vale, GU12 5AY

1.2 Each reference in these Terms and Conditions to “writing” and any similar expression includes electronic communications whether sent by e-mail, text message, fax or other means.

2. Information About Us

2.1 Flexion Health & Fitness Ltd, selling goods and services, is a limited company registered in England (company number 12066674), whose registered address is 47 Wharf Road, Ash Vale GU12 5AY

2.2 Our director Karen Lobo-Morell is a member of the Register of Exercise



Professionals

3. The Contract

- 3.1 These Terms and Conditions govern the sale and provision of Services by Us and will form the basis of the Contract between Us and you. Before submitting an Order, please ensure that you have read these Terms and Conditions carefully. If you are unsure about any part of these Terms and Conditions, please ask Us for clarification.
- 3.2 Nothing provided by us including, but not limited to, sales and marketing literature, price lists and other documents constitutes a contractual offer capable of acceptance. Your Order constitutes a contractual offer that We may, at our discretion, accept.
- 3.3 A legally binding contract between Us and you will be created upon our acceptance of your Order, indicated by Our Order Confirmation. Order Confirmations will be provided in writing.
- 3.4 We shall ensure that the following information is given or made available to you prior to the formation of the Contract between Us and you, save for where such information is already apparent from the context of the transaction:
 - 3.4.1 The main characteristics of the Services;
 - 3.4.2 Our identity (set out above in Clause 2) and contact details (as set out below in Clause 13)
 - 3.4.3 The total Price for the Services including taxes or, if the nature of the Services is such that the Price cannot be calculated in advance, the manner in which it will be calculated;
 - 3.4.4 The arrangements for payment, performance and the time by which (or within which) We undertake to perform the Services;
 - 3.4.5 Where applicable, details of after-sales services and commercial guarantees;
 - 3.4.6 The duration of the Contract, where applicable, or if the Contract is of indeterminate duration or is to be extended automatically, the conditions for terminating the Contract;
 - 3.4.7 Where applicable, the functionality, including appropriate technical protection measures, of digital content;
 - 3.4.8 Where applicable, any relevant compatibility of digital content with hardware and software that We are aware of or might reasonably be expected to be aware of.

4. Orders

- 4.1 All Orders for Goods and Services made by you will be subject to these Terms and Conditions.
 - 4.2 You may change your Order at any time before We have provided the Goods or before We begin providing the Services by contacting Us.
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- 4.3 You may cancel your Order within 14 working days of placing it by contacting us in writing directly at info@thechangeplan.info . If you have already made payments to Us under Clause 5 the payment will be refunded as soon as is reasonably possible, and in any event within 30 Calendar Days of Our acceptance of your cancellation.
- 4.4 We may cancel your Order at any time before We have provided the Goods or before we begin providing the Services. If such cancellation is necessary, We will inform you as soon as is reasonably possible. If you have made any payments to Us under Clause 5 (including, but not limited to the Deposit), the payment(s) will be refunded as soon as is reasonably possible, and in any event within 30 Calendar Days of Us informing you of the cancellation. Cancellations will be confirmed in writing.
- 4.5 We reserve the right to remove your access to The Change Plan online content if we have reason to believe that you have shared your login details with other people who are not members.

5. Price and Payment

- 5.1 The Price of the Services will be that shown at www.flexionfitness.co.uk www.thechangeplan.co.uk and www.thechangeplan.info at the time of your Order.
- 5.2 Our Prices may change at any time but these changes will not affect Orders that We have already accepted.
- 5.3 Except where stated otherwise, all prices exclude VAT. If the rate of VAT changes between the date of your Order and the date of your payment, We will adjust the rate of VAT that you must pay. Changes in VAT will not affect any Prices where We have already received payment in full from you.
- 5.4 Following acceptance of your order of Our online services, you shall have full access to the material.
- 5.5 We accept the following methods of payment:
 - 5.5.1 Bank transfer;
 - 5.5.2 Credit card payment;

6. Providing the Services

- 6.1 As required by law, We will provide the Services advertised with reasonable skill and care, consistent with best practices and standards in the fitness industry and in accordance with any information provided by Us about the Services and about Us.
 - 6.2 We will begin providing the Services on the date confirmed in Our Order Confirmation or, for goods, on receipt of payment.
 - 6.3 If We require any information or action from you in order to provide the Services, We will inform you of this as soon as is reasonably possible.
 - 6.4 If you register on Our online services you will ensure that you keep your username and password confidential and will not share or allow
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unauthorised access to the Website. We reserve the right to cancel, suspend or withdraw your access if we believe you have failed to comply with this clause.

- 6.5 If the information or action required of you under sub-Clause 6.4 is delayed, incomplete or otherwise incorrect, We will not be responsible for any delay caused as a result. If additional work is required from Us to correct or compensate for a mistake made as a result of incomplete or otherwise incorrect information or action on your part, We may charge you a reasonable additional sum for that work.
- 6.6 In certain circumstances, for example where there is a delay in you sending Us information or taking action required under sub-Clause 6.4, We may suspend the Services (and will inform you of that suspension in writing).
- 6.7 In certain circumstances, for example, where We encounter a technical problem, We may need to suspend the Services in order to resolve the issue. Unless the issue is an emergency and requires immediate attention We will inform you in advance in writing before suspending the Services.
- 6.8 If the Services are suspended under sub-Clauses 6.5, 6.6 or 6.7, you will still be required to pay for them during the period of suspension. This would only be temporary and we would endeavour to always update you on any issues. You must, however, pay any invoices that you have already received from Us by their due date(s). If service provision is delayed or prevented by events outside of our control, you will still be required to pay for these services.
- 6.9 If you do not pay Us for the Services as required by Clause 5, We may suspend the Services until you have paid all outstanding sums due. If this happens, We will inform you in writing.

7. Intellectual Property & Licence

7.1 We do not licence you to share your user name and password with anyone else. Each www.thechangeplan.co.uk www.thechangeplan.info online enrolment is for a single user only.

7.2 All intellectual property supplied by Flexion Health & Fitness Ltd shall at all times vest with Flexion Health & Fitness Ltd, You agree that you will not reproduce, copy, distribute or share any materials produced by us.

7.3 Responsibility for the security of any password issued rests with you. We do not licence you to share your user name and or password.

8. Visitor Conduct and Terms of Use

Personally identifiable information is covered under our Privacy Policy. We also require you to provide additional authorisation for the use of information or material you transmit or post to this Website. This information or material will be considered non-confidential and non-proprietary. We will have no obligations with respect to such material.

8.2 Flexion Health & Fitness Ltd Ltd will be free to copy, disclose, distribute, incorporate

and otherwise use such material and all data images, sounds, text and other things embodied therein for any and all commercial or non-commercial purposes, as will other users subject to clause 3.

8.3 We reserve the right to edit and/or remove, in whole or in part, material uploaded to www.thechangeplan.co.uk www.thechangeplan.info without notice.

8.4 You are forbidden to post or transmit to or from this Website any material:

that is threatening, defamatory, obscene, indecent, seditious, offensive, pornographic, abusive, liable to incite racial hatred, discriminatory, menacing, scandalous, inflammatory, blasphemous, in breach of confidence, in breach of privacy or which may cause annoyance or inconvenience; for which you have not obtained all necessary licences and/or approvals; which constitutes or encourages conduct that would be considered a criminal offence, give rise to civil liability, or otherwise be contrary to the law of or infringe the rights of any third party, in the UK or any other country in the world; or which is technically harmful (including without limitation, computer viruses, logic bombs, Trojan horses, worms, harmful components, corrupted data or other malicious software or harmful data).

8.5 You may not misuse the Website (including, without limitation, by hacking).

8.6 We will fully co-operate with any law enforcement authorities or court order requesting or directing us to disclose the identity or locate anyone posting any material.

9. **Problems with the Services and Your Legal Rights**

9.1 We always use reasonable efforts to ensure that Our provision of the Services is trouble-free. If, however, there is a problem with the Services We request that you inform Us as soon as is reasonably possible.

9.2 We will use reasonable efforts to remedy problems with the Services as quickly as is reasonably possible and practical.

10. **Our Liability**

10.1 We will be responsible for any foreseeable loss or damage that you may suffer as a result of Our breach of these Terms and Conditions or as a result of Our negligence (including that of Our employees, agents or sub-contractors). Loss or damage is foreseeable if it is an obvious consequence of the breach or negligence or if it is contemplated by you and Us when the Contract is created. We will not be responsible for any loss or damage that is not foreseeable.

10.2 Nothing in these Terms and Conditions seeks to exclude or limit Our liability for death or personal injury caused by Our negligence (including that of Our employees, agents or sub-contractors); or for fraud or fraudulent misrepresentation.

10.3 Nothing in these Terms and Conditions seeks to exclude or limit Our liability for failing to perform the Services with reasonable care and skill or in accordance with information provided by Us about the Services or about Us.

10.4 Nothing in these Terms and Conditions seeks to exclude or limit Your legal rights as a consumer. For more details of Your legal rights,



please refer to Your local Citizens Advice Bureau or Trading Standards Office.

11. Events Outside of Our Control (Force Majeure)

- 11.1 We will not be liable for any failure or delay in performing Our obligations where that failure or delay results from any cause that is beyond Our reasonable control. Such causes include, but are not limited to: power failure, internet service provider failure, strikes, lock-outs or other industrial action by third parties, riots and other civil unrest, fire, explosion, flood, storms, earthquakes, subsidence, acts of terrorism (threatened or actual), acts of war (declared, undeclared, threatened, actual or preparations for war), epidemic or other natural disaster, or any other event that is beyond Our reasonable control.
- 11.2 If any event described under this Clause 9 occurs that is likely to adversely affect Our performance of any of Our obligations under these Terms and Conditions:
 - 11.2.1 We will inform you as soon as is reasonably possible;
 - 11.2.2 Our obligations under these Terms and Conditions will be suspended and any time limits that We are bound by will be extended accordingly;
 - 11.2.3 We will inform you when the event outside of Our control is over and provide details of any new dates, times or availability of Services as necessary;
 - 11.2.4 If an event outside of Our control occurs and you wish to cancel the Contract, you may do so in accordance with your right to Cancel under sub-Clause 12.3.3.
 - 11.2.5 If the event outside of Our control continues for more than 8 weeks, We will cancel the Contract in accordance with Our right to cancel under sub-Clause 12.6.3 and inform you of the cancellation. Any refunds due to you as a result of that cancellation will be paid to you as soon as is reasonably possible, and in any event within 30 Calendar Days of Our cancellation notice.

12. Cancellation

- 12.1 If you wish to cancel your Order for the Services before the Services begin, you may do so under sub-Clause 4.4.
 - 12.2 If you have made any payment to Us for any Services We have not yet provided, these sums will be refunded to you as soon as is reasonably possible. If the services are purchased on a subscription basis, any refund must be requested within 14 days after the services had been activated. Any refund requests after this time will not be processed. If the Service is a stand-alone course, then that course can be refunded provided the notice requirements (one month prior to the commencement of the course,) have been met, the course fee can be refunded.), and in any event within 14 Calendar Days of Our acceptance of your cancellation. If We have provided Services that you have not yet been paid for, the sums due will be deducted from any refund due to you or, if no refund is due, We will invoice you for those sums and you will be required to make payment in accordance
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with Clause 5.

- 12.3 If any of the following occur, you may cancel the Services and the Contract immediately by giving Us written notice.
 - 12.3.1 You have made any payment to Us for any Services that We have not yet provided up to a month before the event, these sums will be refunded to you as soon as is reasonably possible, and in any event within 30 Calendar Days of Our acceptance of your cancellation.
 - 12.3.2 We have provided Services that you have not yet paid for, the sums due will be deducted from any refund due to you or, if no refund is due, We will invoice you for those sums and you will be required to make payment in accordance with Clause 5.
 - 12.3.3 You cancel because of Our breach under sub-Clause 12.3.1, you will not be required to make any payments to Us.
 - 12.3.4 We enter into liquidation or have an administrator or receiver appointed over Our assets; or
 - 12.3.5 We are unable to provide the Services due to an event outside of Our control (as under sub-Clause 11); or
 - 12.3.6 We change these Terms and Conditions to your material disadvantage.
 - 12.4 We may cancel your Order for the Services before the Services begin under sub-Clause 4.5.
 - 12.5 Once We have begun providing the Services, We may cancel the Services and the Contract at any time by giving you 2 weeks written notice. If you have made any payment to Us for any Services not yet provided, these sums will be refunded to you as soon as is reasonably possible as per Clause 6 above and in any event within 30 Calendar Days of Our cancellation notice. If We have provided Services that you have not yet paid for, the sums due will be deducted from any refund due to you or, if no refund is due, We will invoice you for those sums and you will be required to make payment in accordance with Clause 5.
 - 12.6 If any of the following occur, We may cancel the Services and the Contract immediately by giving you written notice. If you have made any payment to Us for any Services We have not yet provided, these sums will be refunded to you as soon as is reasonably possible, and in any event within 30 Calendar Days of Our cancellation notice. If We have provided Services that you have not yet paid for, the sums due will be deducted from any refund due to you or, if no refund is due, We will invoice you for those sums and you will be required to make payment in accordance with Clause 5. We will not be required to give 4 weeks notice in these circumstances:
 - 12.6.1 You have breached the Contract in any material way and have failed to remedy that breach within 2 weeks of Us asking you to do so in writing; or
 - 12.6.2 We are unable to provide the Services due to an event outside of Our control (for a period longer than that in sub-Clause 11.2.5).
 - 12.7 For the purposes of this Clause 12 (and in particular, sub-Clauses 12.3.1 and 12.6.2) a breach of the Contract will be considered 'material' if it is not minimal or trivial in its consequences to the terminating party (i.e. you under sub-Clause 12.3.1 and Us under sub-Clause 12.6.2).
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In deciding whether or not a breach is material no regard will be had to whether it was caused by any accident, mishap, mistake or misunderstanding.

13. Communication and Contact Details

- 13.1 If you wish to contact Us, you may do so by telephone at +44 (0) 7814539040 or by email at info@thechangeplan.info.
- 13.2 In certain circumstances you must contact Us in writing (when cancelling an Order, for example, or exercising your right to cancel the Services). When contacting Us in writing you may write to 47 Wharf Road, Ash Vale GU12 5AY

14. Complaints and Feedback

- 14.1 We always welcome feedback from Our customers and, whilst We always use all reasonable endeavours to ensure that your experience as a customer of Ours is a positive one, We nevertheless want to hear from you if you have any cause for complaint.
- 14.2 If you wish to complain about any aspect of your dealings with Us, including, but not limited to, these Terms and Conditions, the Contract, or the Services, please contact Us in one of the following ways:
 - 14.2.1 In writing, addressed to our address
 - 14.2.2 By email, addressed to info@thechangeplan.info;
 - 14.2.3 By contacting Us by telephone on +44 (0) 7814539040

15. How We Use Your Personal Information (Data Protection)

- 15.1 All personal information that We may use will be collected, processed, and held in accordance with the provisions of EU Regulation 2016/679 General Data Protection Regulation (“GDPR”) and your rights under the GDPR.
- 15.2 For complete details of Our collection, processing, storage, and retention of personal data including, but not limited to, the purpose(s) for which personal data is used, the legal basis or bases for using it, details of your rights and how to exercise them, and personal data sharing (where applicable), please refer to Our Privacy Notice available from the website

16. Other Important Terms

- 16.1 We may transfer (assign) Our obligations and rights under these Terms and Conditions (and under the Contract, as applicable) to a third party (this may happen, for example, if We sell Our business). If this occurs you will be informed by Us in writing. Your rights under these Terms and Conditions will not be affected and Our obligations under these Terms and Conditions will be transferred to the third party who will remain bound by them.
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- 16.2 You may not transfer (assign) your obligations and rights under these Terms and Conditions (and under the Contract, as applicable) without Our express written permission.
- 16.3 The Contract is between you and Us. It is not intended to benefit any other person or third party in any way and no such person or party will be entitled to enforce any provision of these Terms and Conditions.
- 16.4 If any of the provisions of these Terms and Conditions are found to be unlawful, invalid or otherwise unenforceable by any court or other authority, that / those provision(s) shall be deemed severed from the remainder of these Terms and Conditions. The remainder of these Terms and Conditions shall be valid and enforceable.
- 16.5 No failure or delay by Us in exercising any of Our rights under these Terms and Conditions means that We have waived that right, and no waiver by Us of a breach of any provision of these Terms and Conditions means that We will waive any subsequent breach of the same or any other provision.
- 16.6 We reserve the right to amend these terms at any time. If we do so, we will publish the amended version on the Site. The amended terms and conditions will take effect from the time they are first published on the Site.

17. **Governing Law and Jurisdiction**

- 17.1 These Terms and Conditions, the Contract, and the relationship between you and Us (whether contractual or otherwise) shall be governed by, and construed in accordance with the law of England & Wales
- 17.2 As a consumer, you will benefit from any mandatory provisions of the law in your country of residence. Nothing in Sub-Clause 15.1 above takes away or reduces your rights as a consumer to rely on those provisions.

Any dispute, controversy, proceedings or claim between you and Us relating to these Terms and Conditions, the Contract, or the relationship between you and Us (whether contractual or otherwise) shall be subject to the jurisdiction of the courts of England, Wales

22/06/2019
