

NUTRIBLOCKS GENERAL TERMS

Last updated: 4 April 2023

These General Terms apply to any use of, or subscription to, the Services by NutriBlocks Limited (**we, us, our**) to a school (**you, your**) specified in a signed Order Form.

1. INTERPRETATION

1.1 In this Agreement, certain terms are defined in the Order Form and:

Agreement means these General Terms and the relevant Order Form entered into between you and us.

Confidential Information means an information that is not public knowledge and that is obtained from either you or us in the course of, or in connection with, these Services.

Data means all data, content, and information that you provide to us, or input into the Services.

Fees means the regular subscription fees and any additional fees for additional services set out in the Order Form or as otherwise agreed between us.

Intellectual Property includes copyright, and all intellectual, proprietary, industrial or other rights existing anywhere in the world under statute, common law or equity in relation to inventions (including patents), registered and unregistered trademarks and designs, data, Confidential Information, know-how, and includes any modification or derivative work.

Order Form means the order form specifying the term, fees and school details.

Permitted User means a person authorised to access and use the Services on your behalf under this Agreement.

Services means us providing access to you to the NutriBlocks educational game and other educational, nutritional resources to help students reinforce key concepts from the game.

2. SERVICES

2.1 We will use reasonable endeavours to provide the Services to you during the term of this Agreement with reasonable care and skill, on a non-exclusive basis.

2.2 Upon request, we may choose to provide additional services if you pay any additional Fees.

2.3 We will use reasonable endeavours to ensure the Services are available during business hours in New Zealand. However, we will not be liable for any downtime or disruption in the availability of the Services, including where:

(a) we need to perform scheduled or unscheduled maintenance on the Services; or

(b) an event beyond our reasonable control prevents us from performing the Services.

2.4 We will use reasonable endeavours to notify you of any scheduled maintenance in advance.

2.5 You acknowledge that the Services may interoperate with third party services and that we do not warrant the availability of those services. If any such service becomes unavailable, then:

(a) we may cease to provide that third party service to you; and

(b) you will not be entitled to any refund, discount or other compensation.

3. TERM

3.1 This Agreement commences on the Start Date and will terminate on the End Date, unless otherwise terminated or extended in accordance with this Agreement.

3.2 The parties may renew this Agreement by mutual agreement (including any changes to Fees) at any time before the End Date. If this Agreement is not renewed before the End Date, this Agreement will continue on a monthly basis, and either party can terminate by giving the other party at least 30 days' written notice.

4. YOUR OBLIGATIONS

4.1 You must:

- (a) only use the Services in accordance with this Agreement and for your internal school curriculum purposes;
- (b) provide us with all required information and Data in the format and at the times required;
- (c) comply with our Privacy Policy as set out on our website and updated from time to time;
- (d) comply with our policies and directions in relation to use of the Services;
- (e) not use the Services in any way that breaches any third party right or that is objectionable, incorrect or misleading;
- (f) not modify, copy, adapt, reproduce, disassemble, decompile, reverse-engineer or extract the source code of any part of the Services; and
- (g) not impair the Services or prevent any other person from using the Services.

5. PERMITTED USERS

5.1 You must:

- (a) ensure that only you and your Permitted Users access or use the Services;
- (b) not impersonate any person or misrepresent authority to act on behalf of anyone; and
- (c) not attempt to access or copy any material or data, except for the data that you are authorised to access or copy.

5.2 You may authorise any member of your personnel to be a Permitted User. Any increase in Permitted Users that exceeds the number agreed between us may result in an increase to the Fees (to be determined at our discretion).

5.3 You must procure that each Permitted User complies with this Agreement and any other reasonable requests by us. We may at our discretion revoke any person's status as a Permitted User at any time.

6. FEES

6.1 You must pay the Fees and any GST within 30 days of the date of invoice, unless otherwise agreed. All Fees are in NZD and exclude GST.

6.2 We will provide you with valid GST tax invoices annually in advance for the Fees due for the upcoming year, or as otherwise agreed.

6.3 If we do not receive payment of your Fees on time, we may:

- (a) suspend or terminate access to your account until payment is made in full; and
- (b) charge you interest on overdue amounts at a rate of 10% per annum, calculated on a daily basis from the due date until the date we receive payment (and we may apportion payments to outstanding accounts as we see fit).

6.4 Subject to clause 11.3 we may (acting reasonably) increase the Fees:

- (a) after the End Date to account for inflation and other cost increases, by providing you at least 90 days' written notice of the increase; and
- (b) at any time if we develop new functionality that cannot be conveniently separated from the Services, by providing you at least 30 days' written notice of the increase.

7. DATA AND PRIVACY

7.1 You will retain ownership over all Data. You are responsible for maintaining copies of all Data, and we will not be liable for any Data loss. You must ensure that no Data contains any personal information of students – we do not require any child's personal information to provide the Services.

- 7.2 We may use the Data and information about you and others to train our systems (including by using artificial intelligence) and to generate anonymised and aggregated statistical and analytical data in accordance with our privacy policy (**Analytical Data**). All Intellectual Property rights in Analytical Data will be our property.
- 7.3 We will use Analytical Data for our own internal research and development purposes and to conduct statistical and trend analysis. We may also supply Analytical Data to third parties.

8. INTELLECTUAL PROPERTY

- 8.1 All content, code, software and other Intellectual Property included in our Services and created by or on behalf of us is our property. You must not dispute our ownership, or the validity, of those Intellectual Property rights.
- 8.2 The Services may link to third party websites where relevant. We do not endorse or recommend any third party websites, and we exclude all liability relating to those websites.
- 8.3 If you provide us with ideas or suggestions relating to the Services:
- (a) we will own all Intellectual Property rights in that feedback and anything created as a result (including new material, modifications or derivative works); and
 - (b) we may use or disclose the feedback for any purpose.

9. WARRANTIES

- 9.1 To the extent permitted by law, we expressly exclude all conditions, guarantees or warranties (whether expressed or implied by statute or otherwise).
- 9.2 We do not warrant the quality of the Services and, to the extent permitted by law, do not promise that the Services will:
- (a) meet your requirements or be suitable for a particular purpose;
 - (b) be compatible with any of your systems; or
 - (c) be secure, free of viruses or other harmful code, uninterrupted or error free.

10. LIABILITY

- 10.1 You agree that to the extent permitted by law, we will not be liable to you for any loss or damage arising from your use of the Services. If we are found liable, our total aggregate liability to you is limited to the Fees paid within the past 3 months, to the extent permitted by law.
- 10.2 To the extent permitted by law, we are not liable to you in connection with the Services for any:
- (a) loss of use, data (including Data), or goodwill; or
 - (b) consequential, indirect, economic, incidental or special damage or loss of any kind.

11. TERMINATION

- 11.1 Either you or we may terminate this Agreement for convenience at any time by providing the other party with at least 3 months' written notice.
- 11.2 If you breach any of these terms, or become insolvent or unable to pay your debts when they fall due, we may do any or all of the following:
- (a) suspend your account and our provision of Services;
 - (b) require immediate payment of all Fees (and any outstanding amounts owed to us); or
 - (c) immediately terminate this Agreement.
- 11.3 You may terminate this Agreement if we increase the Fees under clause 6.4 and you give us written notice of termination within 30 days of you receiving notice of the Fee increase.
- 11.4 If this Agreement is terminated under clause 11:
- (a) you will not be entitled to any refund;

- (b) clauses 7 and 8 survive termination; and
- (c) termination does not affect any rights or obligations that accrued before termination.

12. GENERAL

- 12.1 Any notice under this Agreement may be given to you electronically, in person, or by post.
- 12.2 For us to advertise the game and our Services, you agree we may use your school logo, any photos or screenshots of the game and any testimonials you or your students provide. If you do not wish us to use any of these, please ask us before we start providing our Services.
- 12.3 We reserve the right to sub-contract any part of the supply of the Services. You must not assign any of your rights, powers or obligations under this Agreement without our written consent.
- 12.4 If any of these terms are held to be invalid, void, unenforceable or illegal for any reason, such terms will be severed from this Agreement and the remaining terms will continue to apply.
- 12.5 This Agreement is governed by New Zealand law. You submit to the non-exclusive jurisdiction of the New Zealand Courts for any disputes arising in connection with this Agreement.
- 12.6 We may update these terms at any time and the updated terms will apply to any Services supplied after that date.
- 12.7 By signing the Order Form, you confirm you have authority on behalf of your school to commit to this Agreement.
- 12.8 If you have any questions or concerns relating to this Agreement, or the Services, please contact us on info@nutriblocks.co.nz.