

Terms and Conditions for Schools

Tangible Psychology (Tangible Psychology Ltd) Terms of Licence and Use for the CalmBrain® Product

Tangible Psychology Ltd is the provider of CalmBrain in the UK.

This Agreement details the licence Tangible Psychology Ltd grants you and governs your use of the subscription service (the "Service") provided. By accessing the Service you are agreeing either yourself or on behalf of your establishment to the terms that appear below whether you or your establishment have purchased or another party, for example if your Local Authority or Primary Care Trust is paying for the subscription. In these Terms and Conditions "the Software" means all proprietary and licensed software including any platform on which such software is based, provided as part of the Service.

1. Provision of Service

1.1 The website (the "Site") and the Service are owned by Tangible Psychology Ltd, whose registered office is at 58 High Street, Madeley, Telford, TF7 5AT.

1.2 You will receive access to the Service following either payment, or agreement to pay whether verbal or written if offered credit terms, for the period of your subscription. Tangible Psychology Ltd agrees to provide you with reasonable support by telephone or email during normal working hours for the purpose of assisting you to maintain your access to the Site.

1.3 You acknowledge that you have provided Tangible Psychology Ltd with accurate and complete registration information and that it is your responsibility to update Tangible Psychology Ltd of any changes to that information (including your email address) to calmbrainsupport@calmbrainapproach.com.

1.4 At all times, within the definition of the General Data Protection Regulation (GDPR), the Customer (school and its employees; caregiver and users in different settings; healthcare professional and patients;) retain the status of Data Controller for their data held on our cloud service. The data obtained from the Customer's systems always remains in the ownership of the Customer (e.g. school, home, residential or healthcare setting), or that of the individual (employed) users. Tangible Psychology Ltd as your cloud service provider shall be the Data Processor for the purposes of the GDPR except where we act as Data Controller for invoicing and administrative purposes.

1.5 These terms and conditions (including any documents referred to within them) contain all the terms on which we provide the Service to you. They supersede any prior promises, representations, undertakings or implications made.

1.6 Where you are a private consumer, nothing in these terms and conditions shall detract from your statutory rights.

1.7 Access to the Service (except for those parts that we make freely available) is only provided to you on condition that either you pay the Fee (if you are an individual member) or you are a duly authorised employee of an institution that has paid the Fee.

1.8 Your Subscription begins on the day that we either send email notification from Tangible Psychology Ltd or the day on which payment is made electronically through the website. It is your own responsibility to ensure that the details are passed on to the relevant person at your setting to facilitate access to the Site.

1.9 The fee for your subscription (the “Fee”) is calculated annually on the anniversary of the start of your subscription (unless otherwise stated) and payable by such method of payment as Tangible Psychology Ltd requests. Tangible Psychology Ltd shall be under no obligation to provide the Service until the Fee has been paid. Your subscription will renew only if you confirm verbally or in writing that you wish it to do so and agree to make payment of the Fee. If you fail to pay the Fee for any subsequent year, Tangible Psychology Ltd may suspend your access to the Service until your Fee is paid.

1.10 On registration you or your establishment will be allocated unique ID details. You are responsible for all use of the Service using your ID and for preventing unauthorised use of your ID. You must ensure that any user you pass the ID details onto complies with the terms of this Agreement and all reasonable user terms made available on the Site.

1.11 If you believe there has been any breach of security such as the theft of or unauthorised use of your ID, unauthorised access gained to personally identifiable data on our cloud service, personally identifiable data from our cloud service left on an insecure device which is lost or some other data breach as defined within the General Data Protection Regulation, you must notify Tangible Psychology Ltd immediately by emailing calmbrainsupport@calmbrainapproach.com.

1.12 You may use the Service on all computers on all networks within the purchasing establishment, so long as computers outside of the establishment cannot access the Service. The Service cannot be used on any computer or networks outside of the purchasing establishment or those establishments the service has been procured on behalf of, unless by teachers from the purchasing establishment who may use the Service at home for lesson planning and preparation purposes. For avoidance of doubt, the purchasing establishment refers to the buildings at the address provided to Tangible Psychology at the time of purchase. You may also use the Service on a portable computer or tablet device within the establishment.

1.13 You may not rent or lease access to the Service and you may not provide access (or allow any other person to provide access) to the Service on any other computer (except as expressly permitted in paragraph 1.12 above).

1.14 If Tangible Psychology Ltd reasonably believes that your ID is being used in any way which is not permitted by this Agreement through Tangible Psychology Ltd’s Data Detection software, Tangible Psychology Ltd reserves the right to cancel access rights immediately on giving notice to you and to block access from your ID.

1.15 System requirements. Our system requirements information details the necessary hardware, software, system configuration, network infrastructure, bandwidth and other operational requirements necessary for you to successfully operate and use the Software. These requirements are subject to periodic change. You acknowledge that you are responsible for the cost, operation and availability of, and your and any users' compliance with, all elements of these system requirements.

1.16 Transfer of data outside of the European Economic Area. All data entered and saved on the CalmBrain product is stored and backed up on secure database servers owned, managed and controlled by Microsoft incorporated. Any email communication with us will go through our email system (Microsoft Office 365) which is held on Privacy Shield compliant servers.

2. Ownership of Copyright

2.1 The Service (including any images, designs, photographs, animations, video, audio, music and text incorporated into the Service) is owned by Tangible Psychology Ltd and is protected by United Kingdom copyright laws and international treaty provisions. All material displayed on the Service belongs to Tangible Psychology Ltd. Subject to clause 2.2 users may retrieve and display the Service on a computer screen or any other appropriate audio-visual screen.

2.2 You may not (without prior written permission from Tangible Psychology Ltd):

2.2.1 redistribute any of the Content (including by using it as part of any library, archive or similar service);

2.2.2 remove the copyright or trademark notice from any copies of Content made under this Agreement;

2.2.3 create a database in electronic or structured manual form by systematically downloading and storing all or any of the Content;

2.2.4 modify, reproduce or in any way commercially exploit any of the Content;

2.2.5 reverse engineer, decompile, or disassemble the Service. This clause does not prevent access to activities on an individual basis via cached files as purposefully supplied by Tangible Psychology Ltd for the reduction of bandwidth;

2.2.6 frame or mirror any content forming part of the Software or documentation provided as part of the Service, other than for your own internal educational or training purposes and not in violation of any user restrictions;

2.2.7 modify, copy or create derivative works based on any Software or documentation provided as part of the Service;

2.2.8 access or allow others to access any Software or documentation provided as part of the Service in order to build, market or offer a competitive product or service or copy any ideas, features, functions, information, contents or graphics of any Software;

2.2.9 license, sub-license, sale, resale, rent, lease, transfer, assign, distribute or otherwise commercially exploit or make any of the Software available other than to any user as contemplated by this Agreement;

2.2.10 use the Service or the Software to send or store infringing, obscene, threatening, libellous or otherwise unlawful material, including material that is harmful to children or violates third party privacy rights;

2.2.11 interfere with or disrupt the integrity or performance of the Software or the data contained therein;

2.2.12 attempt to gain unauthorised access to the Software or its related systems or networks;

2.2.13 publicly display or publicly perform the Software or any documentation relating to the Software of the Service without our prior written permission.

2.3 You acknowledge that “CalmBrainApproach.com”, “CalmBrain.co.uk”, “Tangible Psychology” are trademarks and that you may not use them without written permission.

2.4 Reservation of rights. The Software provided as part of the Service is licensed to you and not sold to you. Subject to all intellectual property rights owned by any third party vendor and licensor of Tangible Psychology Ltd which are reserved to them and which Tangible Psychology Ltd must protect, all rights, title and interest in and to the Software and any related documentation including all related intellectual property rights are reserved to Tangible Psychology Ltd or its nominee. No other rights are granted to you or any user.

3. Warranties

3.1 Tangible Psychology Ltd will use its reasonable skill in making the Service available to you and in ensuring its continuing availability during your Subscription. However, because of the nature of the Internet and computer software and hardware, errors and omissions do occur and Tangible Psychology Ltd does not give any other warranties in respect of the Service. In particular, you should not take the accuracy of the information for granted and Tangible Psychology Ltd makes no warranty that the Site is free from infection by viruses or anything else that has contaminating or destructive properties. All implied warranties are excluded from this Agreement to the extent that they may be excluded as a matter of law.

4. Limitation of Liability

4.1 Tangible Psychology Ltd will use its reasonable endeavours to resolve faults in the Service during the Subscription. You agree that your only recovery for damages that you incur, and your exclusive remedy, shall be limited to the direct damages you actually incur up to an amount equivalent to the Fee actually paid or payable in relation to your use for the relevant term of the Service. Your only remedy will be to terminate your use of the Service.

4.2 To the maximum extent permitted by applicable law, in no event shall Tangible Psychology Ltd be liable for any damages which arise out of the use or inability to use the Product (including, without limitation, any indirect loss or damage, damages for the loss of business profits, business interruptions, loss of business information, or other pecuniary loss), even if Tangible Psychology Ltd has been advised of the possibility of such damages. In any event, Tangible Psychology Ltd's entire liability to you under this Agreement or with regard to the Product shall be limited to the amount actually paid for the Product.

4.3 Indemnity. Subject to the provisions of this clause 5 and to the extent not prohibited by any applicable law you will defend, indemnify, reimburse and hold, Tangible Psychology Ltd harmless against any loss, damage or costs (including reasonable legal fees), incurred in connection with any claims made or brought against us by:

4.3.1 a third party alleging that customer data, your use of the Software in violation of this Agreement or any materials provided by you either:

4.3.1.1 infringe intellectual property rights of any third party; or,

4.3.1.2 has otherwise harmed a third party; or,

4.3.1.3 anyone who has suffered personal injury or property damage based upon you and your employees', agents' or students' negligence or misconduct.

5. Privacy Policy

5.1 The information that you provide about yourself to Tangible Psychology Ltd will only be used by Tangible Psychology in accordance with its Privacy Policy and delivering the requirements of this contract and on instruction from the School as Data Processor within the definition of the GDPR. All data is held on a secure server. Please email calmbrainsupport@calmbrainapproach.com if you have any questions.

6. Customer Data

6.1 You will continue to own all right title and interest to all of your own customer data as Data Controller within the definition of the GDPR and shall have sole responsibility for the legality, reliability, integrity, accuracy and quality of any customer data which you supply.

6.2 CalmBrain will collect data for the purposes of identifying individuals that require support and for the management and progress of the class so it is important the school or establishment ensures only the designated users of login accounts use those accounts and that every effort is taken to ensure that these are not shared with others.

7. Cookies

7.1 A cookie is a small file which asks permission to be placed on your computer's hard drive. Once you agree, the file is added and the cookie helps analyse web traffic or lets you know when you visit a particular site. Most users will often have their web browsers set to accept cookies by default.

7.2 We use cookies on Tangible Psychology to provide you with the best possible experience on our website and to identify critical account details such as account and user.

7.3 Overall, cookies help us provide you with a better website, by enabling us to monitor which pages you find useful and which you do not. A cookie in no way gives us access to your computer or any information about you, other than the data you choose to share with us.

7.4 By accepting these terms and conditions of use you accept the use of cookies as an essential part of the CalmBrain service.

8. Email Communication

8.1 By taking a subscription to CalmBrain you agree to receive occasional “account maintenance” email notifications, these will inform you when you are approaching the end of your subscription period and also provide links to "Getting Started" resources when you first subscribe as well as essential account information in relation to the Service. You will also be placed onto the mailing list to receive our added value marketing emails that provide additional classroom resources and news about new features from which you can unsubscribe from at any stage.

8.2 You undertake on behalf of your staff (if applicable) to avoid wherever possible the sending of personally identifiable staff or student data via email to Tangible Psychology Ltd. If this cannot be avoided your staff will understand their obligations under the GDPR to send such data in a secure way. Tangible Psychology Ltd will destroy any such emails they receive as soon as the data has been processed.

9. Termination

9.1 The Agreement shall, unless otherwise terminated as provided in this clause, continue for each subscription term. Without affecting any other right or remedy available to it we may terminate this Agreement with immediate effect by giving written notice to you if you commit a material breach of any term of this Agreement and fail to remedy the breach within 7 days of a written request from us to do so or you repeatedly breach any term of this Agreement in such a manner as to reasonably justify the opinion that your conduct is inconsistent with having the intention or ability to give effect to the terms of this Agreement.

9.2 On termination of this Agreement or any non-renewal of this Agreement for any reason all licences granted under this Agreement shall immediately terminate and each party shall make no further use of any data, documentation or other items (and all copies of the same) belonging to the other party.

9.3 Any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination, including the right to claim damages in respect of any breach of the Agreement which has existed at or before the date of termination, shall not be affected or prejudiced.