

## Terms and Conditions

### 1. Scope of Terms

- 1.1. The Learning Management System (**LMS**) is operated by Fight Parkinson's. Throughout these Terms and Conditions (**Terms**) Fight Parkinson's is referred to as 'we', 'us' or 'Fight Parkinson's'.
- 1.2. The LMS contains materials, courses, information, tools, images and other content (**Content**) which we have designed to assist you with your understanding of Parkinson's disease and your ability to support those diagnosed with Parkinson's disease.
- 1.3. By accessing the LMS or by using any Content, you agree to comply with these Terms. If you do not accept these Terms, you must not access or use the LMS or Content. Your use of the LMS and Content is conditional on your acceptance of the Terms.
- 1.4. If you are accessing or using the LMS for or on behalf of an organisation or other legal entity (**Entity**), you warrant that you are authorised to accept these Terms on behalf of that Entity, and that the Terms will bind the Entity.
- 1.5. Certain terms and expressions that are used in these Terms are defined in **bold** or in the dictionary at the end of these Terms.

### 2. Access to the LMS

- 2.1. **Licence:** Upon creation of a user account and payment of any applicable fee, Fight Parkinson's grants you a limited, non-exclusive and non-transferrable licence to access and use the LMS and Content in accordance with these Terms.
- 2.2. **Paid Content:** Certain content on the LMS is accessible only upon payment of a fee which is notified to you in advance. Fight Parkinson's may require you to enter into a separate agreement in order to access paid Content.
- 2.3. **User Account:** To access the LMS, you will be prompted to create a user account. The account may be an individual or bulk user account depending on the Content you wish to access, and any agreement you or an Entity you represent has with Fight Parkinson's (including as to the number of users that may access the LMS under a bulk user account).



- 2.4. **Accuracy:** When you create an account, you must provide current, complete and accurate information, and you must maintain and promptly update your information so that it is accurate, current and complete at any time.
- 2.5. **Liability for use of account:** You are responsible for maintaining control over access to your account (including the confidentiality of your password). You are also responsible for all activities that occur under your account, whether authorised by you or not, and you must notify Fight Parkinson's immediately of any suspected, threatened or actual unauthorised use of your account or any other breach of security. Fight Parkinson's will not be liable for any claim, loss or damage arising as a result of someone else using your password or account, either with or without your knowledge.
- 2.6. **Use by employees etc:** Where an account is created on behalf of an Entity, the Entity is liable for, and indemnifies Fight Parkinson's in relation to, any claim, loss or damage arising as a result of the use of the LMS by an individual associated with that Entity, including but not limited to an employee or contractor.
- 2.7. **Modification or termination of LMS:** Fight Parkinson's may terminate or modify any feature or part of the LMS at any time without notice.

### 3. Your Health - Accuracy and completeness of information

- 3.1. **Purpose:** The Content is intended to assist users in their understanding of Parkinson's disease, and ability to support those diagnosed with Parkinson's disease. The Content is not created for any other medical conditions.
- 3.2. **No substitute for medical advice:** While the Content is created by a team of qualified and registered clinicians, it is not a substitute for professional medical advice, diagnosis or treatment and should not be relied on as such. Always seek the guidance of your doctor or other qualified health professional with any questions you may have regarding your health or the health of others. Never disregard professional medical advice or delay seeking it because of something you have read in the Content or through the LMS.
- 3.3. **Accuracy of Content:** You acknowledge and agree that Fight Parkinson's does not guarantee that the Content is accurate, reliable or error-free.
- 3.4. **Reliance on Content:** You are solely responsible for your use of the LMS. Fight Parkinson's does not accept any liability for any injury, loss or damage caused by the use of, or reliance by you on, the Content.



#### 4. Privacy

- 4.1. We respect your privacy. You consent to Fight Parkinson's collecting, using and disclosing to third parties your personal information and sensitive information in accordance with our Privacy Policy (as amended from time to time), available at the following web page: <https://www.fightparkinsons.org.au/about-us/privacy-statement/>

#### 5. Intellectual Property

- 5.1. **What we own:** Fight Parkinson's owns all Intellectual Property Rights in the Content and other content we put on the LMS. This includes the design, compilation and look and feel of the Content and LMS, and copyright works, trade marks, logos and trade names (unless otherwise stated). We are proud of our Content and will protect our investment in creating it, including by taking legal action where necessary.
- 5.2. **No ownership by you:** Nothing in these Terms grants you or anyone else any ownership rights or interest in the Content or the LMS.
- 5.3. **Prohibited Conduct:** Except to the extent permitted by law, you may not copy, reproduce, distribute, modify or publish any part of the LMS or the Content in any form without our prior written permission. Specifically, you may not:
- Use the Content for commercial profit or gain;
  - Share or redistribute any of the Content to anyone else;
  - Make copies of any Content;
  - Modify or adapt the Content for your own purposes, whether commercial or non-commercial;
  - Use the Content to establish, maintain or provide, or assist in establishing, maintaining or providing a learning management system for yourself or others;
  - Use any of our trade marks or logos (including in metatags or other hidden text);
  - Allow others to access the Content through your account; or
  - Remove any of our proprietary notices, or circumvent any of the digital rights management, on the Content.
- 5.4. **Using our Intellectual Property:** Fight Parkinson's is open to collaborating with you in relation to use of the Content. If you are interested in using any of the Content, we encourage you to contact us to obtain the appropriate permissions (which may require a licence fee).



## 6. How you may use the LMS

### 6.1. **Prohibited Conduct:** When using the LMS, you must not:

- 6.1.1. upload, publish or post false, inaccurate, misleading, defamatory or offensive content;
- 6.1.2. impersonate any person or entity or otherwise misrepresent your affiliation with a person or entity;
- 6.1.3. distribute or post spam, unsolicited, or bulk electronic communications, chain letters, or pyramid schemes, or distribute viruses or any other technologies that may harm Fight Parkinson's;
- 6.1.4. take any action that imposes, or may impose, in Fight Parkinson's sole discretion, an unreasonable or disproportionately large load on Fight Parkinson's infrastructure;
- 6.1.5. use the LMS in any manner that could damage, disable, overburden, or impair the LMS or any network or other infrastructure used by or connected to Fight Parkinson's;
- 6.1.6. interfere or attempt to interfere with the proper working of the LMS, any other party's use and enjoyment of the LMS, or any activities conducted on, or in connection with, the LMS;
- 6.1.7. bypass any robot exclusion headers or other measures Fight Parkinson's may use to prevent or restrict access to the LMS; or
- 6.1.8. gain, or attempt to gain, unauthorised access to any areas of the LMS, other accounts, or any systems, networks or infrastructure used by or connected to Fight Parkinson's.

## 7. Reviews, Comments and Communications

- 7.1. **What user content is permitted:** Where the LMS permits, users may post reviews, comments, and other content; send communications and submit suggestions, ideas, comments, questions, material or other information (each being an item of **User Content**), provided that the User Content is not illegal, obscene, threatening, defamatory, invasive of privacy, infringing of intellectual property rights, or otherwise injurious to third parties, and provided the User Content complies with these Terms.



- 7.2. **User content removal:** We may review and remove any User Content for any reason at our discretion. We take no responsibility and assume no liability for any User Content.
- 7.3. **Our use of User Content:** If you post, submit or otherwise supply any User Content, you grant Fight Parkinson's a nonexclusive, royalty-free, irrevocable and transferable licence to use, reproduce, modify, adapt, publish, publicly perform, translate, create derivative works from, distribute, and publicly display such User Content in any media. You grant Fight Parkinson's the right to use the name that you submit in connection with such User Content. You acknowledge and agree that you are not entitled to any compensation or reimbursement of any kind from Fight Parkinson's in connection with any use described in this paragraph.
- 7.4. **Ownership of User Content:** You represent and warrant that you own or otherwise control all of the Intellectual Property Rights to the User Content that you post; that the User Content is accurate; that use of the User Content you supply does not breach these Term nor infringe any third party Intellectual Property Rights, and that the User Content will not cause injury, loss or damage to any person or entity.
- 7.5. **Indemnity:** You must indemnify and keep indemnified Fight Parkinson's for all claims resulting from User Content you post.

## 8. Disclaimer and Limitation of Liability

- 8.1. **As is Basis:** The LMS and Content provided "as is", "as available" and on a "with all faults" basis, without warranties of any kind either express or implied, and the entire risk as to the quality and performance of the LMS is with you.
- 8.2. **Availability of LMS:** We will use commercially reasonable efforts to ensure the LMS is available 24 hours a day, 7 days per week, however the LMS may become unavailable from time to time for any scheduled updates or as a result of events beyond our reasonable control.
- 8.3. **Browser support:** Fight Parkinson's does not warrant that all devices and browsers can access and support the LMS.
- 8.4. **No warranty:** Without limiting any other provision of these Terms, Fight Parkinson's makes no representation or warranty about:
- 8.4.1. any of the LMS, the results that may be obtained from the use of the LMS, or the accuracy, reliability, availability, veracity, timeliness or content of any of the LMS;
- 8.4.2. whether the LMS will be up-to-date, uninterrupted, timely, secure, error-free or non-misleading, or that defects in the LMS will be corrected;



- 8.4.3. whether the LMS or any data, content or material will be backed up or whether business continuity arrangements are in place in respect of the LMS;
  - 8.4.4. any third party agreements or any guarantee of business gained by you through the LMS; or
  - 8.4.5. the LMS, or the systems or infrastructure on which the LMS are based, being error or malicious code free, secure, confidential or performing at any particular standard or having any particular function.
- 8.5. **Limitation of Liability:** You acknowledge and agree that, to the extent permitted by law, Fight Parkinson's is not liable in any way, whether in contract, warranty, tort (including negligence) or otherwise for:
- 8.5.1. any claim, loss or damage, which may be incurred by you as a result of, or in connection with your use of, the LMS and/or any third party content;
  - 8.5.2. any special, indirect, incidental or consequential loss or damages (including, without limitation, legal fees); or
  - 8.5.3. any direct or indirect loss or damages whatsoever resulting from loss of use, data or profits, arising out of or in connection with your access to, use of, or inability to access or use any of the LMS, or performance of software, documents, provision of or failure to provide the LMS, or information available from the LMS,
- whether or not Fight Parkinson's have been advised of the possibility of such losses or damages arising.
- 8.6. **Consumer Law:** In some countries there may be non-excludable warranties, guarantees or other rights (**non-excludable consumer guarantees**). We do not limit, restrict or exclude any non-excludable consumer guarantees in these Terms. Our liability for breach of a non-excludable consumer guarantee (including under the *Australian Competition and Consumer Act 2010* (Cth)) is limited to replacing or paying the cost of replacing the relevant good or service.

## 9. Indemnity

- 9.1. **Indemnity by you:** You must indemnify and hold harmless, and keep indemnified and continue to hold harmless, Fight Parkinson's against all claims, loss, actions, proceedings, costs, expenses (including legal fees), claims and damages arising from:



- 9.1.1. any breach by you of the Terms, or of any laws, rules, regulations, codes, statutes, ordinances or orders of any government authority or court; or
- 9.1.2. your breach, or alleged breach, of any third-party right, including without limitation, any intellectual property right, confidentiality, or privacy right; or
- 9.1.3. reliance by you on any information obtained through the LMS including, without limitation, any Fight Parkinson's or any third-party content; or
- 9.1.4. your access to or use of the LMS.

## 10. Advertising and Links to other Websites

- 10.1. **Third party links:** The LMS and certain Course content may contain links to third party sites or applications (**External Sites**). External Sites are not under the control of Fight Parkinson's, and Fight Parkinson's is not responsible for the content of any External Sites. Where Fight Parkinson's provides links to any External Sites, it does so for your convenience only, and the inclusion of any link does not imply any recommendation or endorsement of the External Sites by Fight Parkinson's. You visit External Sites entirely at your own risk.
- 10.2. **Third Party Material:** The LMS may also contain third party advertisements including banner ads, third party logos and information, material and documents relating to or provided by third parties (**Third Party Material**). The Third Party Material may contain embedded hyperlinks to websites operated by third parties or their licensees or contractors (**Third Party Websites**). Fight Parkinson's does not recommend or endorse the products or services of those third parties.
- 10.3. **No liability:** Fight Parkinson's does not give any representation or warranty as to the reliability, accuracy or completeness of any Third-Party Material, Third Party Websites, or External Sites.

## 11. Linking

- 11.1. **Permitted Links:** If you would like to link to the LMS from other sites, you must:
  - 11.1.1. link to the full LMS and not directly to any Content hosted on the LMS;
  - 11.1.2. not use any linking methods which result in Content or Fight Parkinson's images being displayed on other sites;
  - 11.1.3. not suggest any relationship, endorsement or sponsorship between another site or brand and the LMS or Fight Parkinson's; and
  - 11.1.4. link to the LMS in good faith and not cause the Fight Parkinson's brand to be viewed in a negative or potentially negative light.







- 11.2. **Revoking permission:** Fight Parkinson's reserves the right to require any link to the LMS to be discontinued and to revoke your ability to link to the LMS at any time.

## 12. Cancellation, Suspension and Termination

- 12.1. **Cancellation by you:** You may cancel your LMS account at any time by ceasing to access or use any of the LMS, or by otherwise following any instructions that we provide to you for cancelling your account.
- 12.2. **Cancellation by us:** We may cancel or deactivate a user account that has not been logged into within 12 months.
- 12.3. **Suspension of account:** We may cancel or suspend your account, or limit your access to any of the LMS if:
- 12.3.1. we determine that you have breached these Terms;
  - 12.3.2. we determine that you have infringed any laws or regulations or the rights of a third party, including infringing someone else's intellectual property rights, or if we determine that you have engaged, or are engaging, in fraudulent, or illegal activities; or
  - 12.3.3. you do not respond to or complete any account verification requests.

## 13. General

- 13.1. The LMS and Content are not intended for distribution to or use by any person or entity in any jurisdiction where such distribution or use would be contrary to law or regulation, or which would subject Fight Parkinson's to any registration requirement within such jurisdiction. We reserve the right to limit the availability of the LMS or any portion of the LMS, to any person, geographic area, or jurisdiction at any time.
- 13.2. Fight Parkinson's may, in its sole discretion, refuse to offer access to or use of any of the LMS to any person or entity and change its eligibility criteria at any time.
- 13.3. All provisions of these Terms that by their nature should survive termination shall survive termination, including, without limitation, intellectual property provisions, warranties, disclaimers, and limitations of liability.
- 13.4. If Fight Parkinson's is partially or wholly precluded from complying with its obligations under these Terms by any event, matter or circumstance that is beyond its reasonable control, then Fight Parkinson's' obligation to perform will be





suspended for the duration of the delay arising out of the event, matter or circumstance.

- 13.5. If Fight Parkinson's does not exercise or enforce any legal right or remedy contained in this Agreement (or which Fight Parkinson's has the benefit of under any applicable law), this will not operate as a waiver of Fight Parkinson's' rights and that those rights or remedies will still be available to Fight Parkinson's.
- 13.6. We may amend or replace these Terms at any time by posting the amended or replacement terms on the LMS. The revised version will be effective immediately at the time we post it. Please check these Terms and Conditions periodically for changes. Your continued use of any of the LMS after posting of the changes constitutes your binding acceptance of such changes. However, if the revised version includes a material change, it will be effective for an existing user on the earlier of: (a) the date you accept it; and (b) 30 days after the material changes are initially posted to the LMS.
- 13.7. If any provision of this Agreement is held to be invalid, illegal or unenforceable, such provision which will be severed, and the remaining provisions will continue in full force and effect.
- 13.8. You must not assign, transfer, charge, sub-contract, or otherwise deal with all or any of your rights and/or obligations under the Agreement. Fight Parkinson's may assign, transfer, novate the Agreement (in whole or in part), sub-contract any of its obligations under the Agreement, or otherwise deal with the benefit of, or a right under, the Agreement, to any other person without obtaining your consent.
- 13.9. Nothing in the Agreement creates, or will be deemed to constitute, a partnership, joint-venture, agency or fiduciary relationship between you and us.
- 13.10. These Terms are governed by and construed in accordance with the laws of Victoria, Australia. Both parties submit to the non-exclusive jurisdiction of the courts of Victoria and the courts of appeal from them.

## Dictionary

**Intellectual Property Rights** means all present and future rights conferred by law in or in relation to intellectual property including copyright, trademarks, designs, patents, circuit layouts, plant varieties, inventions and the right to keep Confidential Information confidential, and other results of intellectual activity in the industrial, commercial, scientific, literary or artistic fields whether or not registrable, registered or unregistered or patentable. These rights include all rights in all applications to register these rights, all renewals and extensions of these rights and all rights in the nature of these rights, excluding moral rights.

