

Pulvertaft Hand Rehabilitation Tool - Terms of Platform Use

PLEASE READ THESE TERMS OF PLATFORM USE CAREFULLY BEFORE USING OUR PLATFORM. USING THE PLATFORM INDICATES THAT YOU ACCEPT THESE TERMS REGARDLESS OF WHETHER OR NOT YOU CHOOSE TO REGISTER WITH US. IF YOU DO NOT ACCEPT THESE TERMS, DO NOT USE THE PLATFORM. YOU ACKNOWLEDGE AND AGREE THAT THE PLATFORM CONTENT IS PROVIDED SOLELY FOR YOUR INFORMATION. THE CONTENT DOES NOT PROVIDE YOU WITH ANY ADVICE OR RECOMMENDATION OF ANY KIND AND MUST NEVER BE USED AS A SUBSTITUTE FOR ADVICE PROVIDED BY A DOCTOR OR OTHER QUALIFIED HEALTHCARE PROFESSIONAL.

Agreed Terms

1. Interpretation

The following definitions and rules of interpretation apply in these Terms of Platform Use.

1.1. Definitions:

“Business Day” means a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business;

“Content” means all audio, video, text, images or other content and information made available by us to you through the Platform and may include content which is owned or controlled by third parties which we are permitted to make available to you through the Platform;

“University Hospitals of Derby & Burton NHS Foundation Trust”, “we”, “our” or “us” means University Hospitals of Derby & Burton NHS Foundation Trust, an NHS Foundation Trust formed in England whose address is Uttoxeter Road, Derby DE22 3NE;

“Platform” means the Pulvertaft Hand Rehabilitation Tool website and any related websites, applications, services and mobile applications provided by us;

“Terms of Platform Use” means these Terms of Platform Use together with any documents referred to in it;

“User, you or your” means any person that is registered on the Platform by any means, including via their health practitioner and /or their health practitioner’s organisation, for the purpose of accessing the Content and any other person who accesses or uses the Platform.

1.2. Clause headings shall not affect the interpretation of these Terms of Platform Use.

1.3. A person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).

1.4. Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.

1.5. Unless otherwise specified, a reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time and shall include all subordinate legislation made from time to time under that statute or statutory provision and all orders, notices, codes of practice and guidance made under it.

2. Acceptance of the terms

2.1. These Terms of Platform Use are a legal agreement between the User and us for the use of our Platform. Use of the Platform includes accessing, browsing, or registering to use our Platform.

2.2. When using the Platform, you must also comply with the privacy policy and cookies policy of the University Hospitals of Derby & Burton NHS Foundation Trust, found at the bottom of the Platform.

2.3. By using and/or registering to use the Platform, you confirm that you accept all of the terms and conditions contained in these Terms of Platform Use.

2.4. If you do not agree to these Terms of Platform Use, you must not use the Platform.

2.5. You are also responsible for ensuring that all persons who access the Platform through your internet connection are aware of these Terms of Platform Use and other applicable terms and conditions, and that they comply with them.

2.6. We recommend that you store or print-off a copy of these Terms of Platform Use for your records.

3. Acceptable Use

Platform

3.1 You may use the Platform only for lawful purposes. You must not use the Platform:

- a) in any way that breaches any applicable local, national or international law or regulation;
- b) in any way that is unlawful or fraudulent, or has any unlawful or fraudulent purpose or effect;
- c) for the purpose of harming or attempting to harm minors in any way;
- d) to send, knowingly receive, upload, download, use or re-use any material which does not comply with the content standards contained within these Terms of Platform Use;
- e) to interfere with any other user's use or enjoyment of the Platform;
- f) to attempt to clinically diagnose yourself; or
- g) to knowingly transmit any data, send or upload any material that contains viruses, Trojan horses, worms, time-bombs, keystroke loggers, spyware, adware or any other harmful programs or similar computer code designed to adversely affect the operation of any computer software or hardware.

3.2 You also agree:

- a) not to reproduce, duplicate, copy or re-sell any part of the Platform in contravention of the provisions of our Terms of Platform Use; and
- b) not to access without authority, interfere with, damage or disrupt;
 - o any part of the Platform;

- any equipment or network on which the Platform is stored;
- any software used in the provision of the Platform; or
- any equipment or network or software owned or used by any third party.

Interactive services

3.3 We may from time to time provide interactive services on the Platform, including, without limitation, instant messaging, video calls, bulletin boards, discussion boards and forums (“Interactive Services”).

3.4 Where we do provide any Interactive Service, we will provide clear information to you about the kind of service offered, if it is moderated and what form of moderation is used (including whether it is human or technical).

3.5 We will do our best to assess any possible risks for users (and in particular, for children) from third parties when they use any Interactive Service provided on the Platform, and we will decide in each case whether it is appropriate to use moderation of the relevant service (including what kind of moderation to use) in the light of those risks. However, we are under no obligation to oversee, monitor or moderate any interactive service we provide on the Platform, and we expressly exclude our liability for any loss or damage arising from the use of any Interactive Service by a user in contravention of our content standards, whether the service is moderated or not.

3.6 Where we do moderate an Interactive Service, we will normally provide you with a means of contacting the moderator, should a concern or difficulty arise.

Content standards

3.7 These content standards apply to any and all material which you contribute to the Platform (“Contributions”), and to any Interactive Services associated with it.

3.8 You must comply with the spirit and the letter of the following standards. The standards apply to each part of any Contribution as well as to its whole.

3.9 Contributions must:

- a) be accurate (where they state facts or detail the nature and severity of your physical condition);
- b) be genuinely held (where they state opinions); and
- c) comply with applicable law in the UK and in any country from which they are posted.

3.10 Contributions must not:

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- a) contain any material which is defamatory of any person;
- b) contain any material which is obscene, offensive, hateful or inflammatory;
- c) promote sexually explicit material;
- d) promote violence;

- e) promote discrimination based on race, sex, religion, nationality, disability, sexual orientation or age;
- f) infringe any copyright, database right or trade mark of any other person;
- g) be likely to deceive any person;
- h) be made in breach of any legal duty owed to a third party, such as a contractual duty or a duty of confidence;
- i) promote any illegal activity;
- j) be threatening, abuse or invade another's privacy, or cause annoyance, inconvenience or needless anxiety;
- k) be likely to harass, upset, embarrass, alarm or annoy any other person;
- l) be used to impersonate any person, or to misrepresent your identity or affiliation with any person;
- m) give the impression that they emanate from us, if this is not the case; or
- n) advocate, promote or assist any unlawful act such as (by way of example only) copyright infringement or computer misuse.

3.11 If you find any content on our Platform to be in any way offensive, obscene, defamatory, racist, harmful, inaccurate, unlawful, illegal, infringing of any third party rights, deceptive in any way or otherwise in breach of our content standards, please notify us by email at dhft.handtherapyadmin@nhs.net and using the subject heading "Unacceptable Content". We take complaints seriously and on receipt of your complaint we will investigate whether the content breaches our content standards or this clause 3 and may at our discretion, remove or block access to the Content complained of.

Suspension and termination

3.12 We will determine, in our discretion, whether there has been a breach of these Terms of Platform Use through your use of the Platform. Where a breach has occurred, we may take such action as we deem appropriate.

3.13 Failure to comply with this clause 3 constitutes a material breach of the Terms of Platform Use upon which you are permitted to use the Platform, and may result in our taking all or any of the following actions:

- a) immediate, temporary or permanent withdrawal of your right to use the Platform;
- b) immediate, temporary or permanent removal of any posting or material uploaded by you to the Platform;
- c) issue of a warning to you;
- d) legal proceedings against you for reimbursement of all costs on an indemnity basis (including, but not limited to, reasonable administrative and legal costs) resulting from the breach;
- e) further legal action against you; and/or

- f) disclosure of such information to law enforcement authorities as we reasonably feel is necessary.

3.14 We exclude liability for actions taken in response to breaches of this clause 3. The responses described in this policy are not limited, and we may take any other action we reasonably deem appropriate.

4. Platform Services

4.1. We allow Users access to Content on the Platform to aid them in their recovery from surgery, conditions or injuries to the hand or upper limb.

4.2. In consideration of you agreeing to abide by these Terms of Platform Use, we hereby grant to you a non-exclusive, non-transferable, licence to use the Platform.

4.3. Access to the Platform is permitted on a temporary basis and we reserve the right to withdraw or amend the Platform without notice.

4.4. We will not be liable if for any reason the Platform is unavailable at any time or for any period.

4.5. You are responsible for making all arrangements necessary for you to have access to the Platform. You are also responsible for ensuring that all persons who access the Platform through your internet connection are aware of these Terms of Platform Use and that they comply with them.

4.6. We may update and change the Platform and the Content from time to time to reflect changes to our products, our users' needs and our business priorities. However, please note that any of the Content on the Platform may be out of date at any given time, and we are under no obligation to update it.

4.7. We do not guarantee that the Platform will be secure or free from bugs or viruses.

4.8. We cannot guarantee continuous access to the Platform. We will strive to ensure that the periods of planned unavailability, which you will be informed of when you access the Platform at the relevant time, are kept to a minimum. If the need arises, we may suspend access to the Platform, or close it indefinitely.

4.9. You are responsible for configuring your information technology, computer programmes and platform to access the Platform. You should use your own virus protection software.

5. Purpose and accuracy of Content

5.1. The Content on our Platform is provided for education, aid, recovery assistance, allowing communications between the parties and general information only.

5.2. Notwithstanding the foregoing, we make no representations, warranties or guarantees, whether express or implied, that the Content on our Platform is accurate, complete or up-to-date.

5.3. To the extent permitted by law, we shall not be liable to you or anyone else for any decision made or action taken by you in reliance on the Content.

5.4. Please note that the Content on the Platform is provided solely for your information and all Users access the Platform and use the Content including exercises at their own risk. The Content must never be used as a substitute for, nor does it

replace professional medical advice, diagnosis, assistance or treatment or procedure. Nothing stated or posted on the Platform is intended to be and must not be taken to be the provision of professional healthcare advice or the provision of medical care.

5.5. Users who are under the care of a clinician must follow the directions of their own clinician in respect of use of the Content. You must not disregard, avoid or delay obtaining medical advice from a qualified healthcare provider based on what you have read on the Platform nor use the Platform for emergency medical care or needs. In a medical emergency, immediately contact the emergency services.

5.6. Use of the Platform shall not create a patient / clinician relationship between any User and University Hospitals Derby & Burton NHS Foundation Trust.

5.7. The Platform is available for use by clinicians worldwide. We shall not be liable for the actions of any clinician who is not employed or engaged by University Hospitals Derby & Burton NHS Foundation Trust and we do not in any way evaluate or recommend any practitioner or clinician who is not employed or engaged by us who may recommend use of the Platform.

6. Changes to these terms

We may revise these Terms of Platform Use at any time. Please check this page from time to time to take notice of any changes we have made, as they are binding on you. If you do not agree to such changes, you should not use the Platform. Your continued use of the Platform after the date the modified terms are posted will constitute your acceptance of the modified terms.

7. Your account and password

7.1. If you choose, or you are provided with, a user identification code, password or any other piece of information as part of our security procedures, you must treat such information as confidential. You must not disclose it to any third party.

7.2. We have the right to disable any user identification code or password, whether chosen by you or allocated by us, at any time, if in our reasonable opinion you have failed to comply with any of the provisions of these Terms of Platform Use.

7.3. If you know or suspect that anyone other than you knows your user identification code or password, you must promptly notify us at dhft.handtherapyadmin@nhs.net.

8. Intellectual property rights

8.1. We are the owner or the licensee of all intellectual property rights in the Platform, and in the Content and other material published on it. Those works are protected by copyright laws and other laws and treaties around the world. All such rights are reserved.

8.2. You may print off one copy, and may download extracts, of any page(s) from our Platform for your personal use and you may draw the attention of others within your organisation to Content posted on our Platform.

8.3. You must not modify the paper or digital copies of any materials you have printed off or downloaded in any way, and you must not use any illustrations, photographs, video or audio sequences or any graphics separately from any accompanying text.

8.4. Our status (and that of any identified contributors) as the authors of Content on our Platform must always be acknowledged.

8.5. You must not use any part of the Content on our Platform for commercial purposes without obtaining a licence to do so from us or our licensors.

8.6. If you print off, copy or download any part of our Platform in breach of these Terms of Platform Use, your right to use our Platform will cease immediately and you must, at our option, return or destroy any copies of the materials you have made.

8.7. You are not permitted to use any of our trade marks (including the name Pulvertaft Hand Centre), videos, audio content or any other content on the Platform without our approval, unless they are part of material you are using as permitted under this clause 8.

8.8. We reserve all rights to pursue any remedy that we may have for breach of this clause 8.

9. Limitation of our liability

9.1. Nothing in these Terms of Platform Use excludes or limits our liability for death or personal injury arising from our negligence, or our fraud or fraudulent misrepresentation, or any other liability that cannot be excluded or limited by English law.

9.2. To the extent permitted by law, we exclude all implied conditions, warranties, representations or other terms which may apply to our Platform or any Content on it.

9.3. We will not be liable to any User for any loss or damage, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, even if foreseeable, arising under or in connection with:

(a) use of, or inability to use, our Platform; or

(b) use of or reliance on any Content displayed on our Platform.

9.4. We will not be liable for any loss or damage caused by a virus, distributed denial-of-service attack, or other technologically harmful material that may infect your computer equipment, computer programs, data or other proprietary material due to your use of our Platform or to your downloading of any Content on it, or on any website linked to it.

9.5. We assume no responsibility for the content of websites linked on our Platform. Such links should not be interpreted as endorsement by us of those linked websites. We will not be liable for any loss or damage that may arise from your use of them.

9.6. Users accept that we only provide the Platform for domestic and private use. You agree not to use the Platform for any commercial or business purposes, and we have no liability to you for any loss of profit, loss of business, business interruption, or loss of business opportunity.

9.7. We will not be liable if defective digital content that we have supplied damages a device or digital content belonging to Users.

9.8. Our maximum aggregate liability under or in connection with these Terms of Platform Use, whether in contract, tort (including negligence other than where such limitation is not permitted by law) or otherwise, shall in all circumstances be limited to a sum equal to the amount you have paid to use the Platform or in the event that access has been provided free of charge, the sum of £1.

10. Termination

10.1. Either party may terminate these Terms of Platform Use immediately and without notice to the other party. You may terminate these Terms of Platform Use by deleting your account and refraining to use the Platform.

10.2. Upon termination for any reason:

(a) all rights granted to you under these Terms of Platform Use shall cease;

- (b) you must cease all activities authorised by these Terms of Platform Use; and
- (c) you must immediately delete your account and cease using the Platform and certify to us that you have done so.

11. Transfer of rights and obligations

11.1. You may not transfer, assign, subcontract, novate, charge or otherwise dispose of these Terms of Platform Use, or any of your rights or obligations arising under them.

11.2. We may transfer, assign, subcontract, charge, novate or otherwise dispose of these Terms of Platform Use, including any of our rights or obligations arising under them.

12. Third party links and resources in our Platform

12.1. Where our Platform contains links to other sites and resources provided by third parties, these links are provided for your information only.

12.2. We have no control over the contents of those sites or resources and acceptance no liability for them.

13. Uploading content to the Platform

13.1. Whenever you make use of a feature that allows you to upload content to the Platform, or to make contact with other Users of the Platform, you must comply with the content standards set out in these Terms of Platform Use.

13.2. You warrant that any such contribution does comply with those standards, and you will be liable to us and indemnify us for any breach of that warranty. This means you will be responsible for any loss or damage we suffer as a result of your breach of warranty.

13.3. We also have the right to disclose your identity to any third party who is claiming that any content posted or uploaded by you to the Platform constitutes a violation of their intellectual property rights, or of their right to privacy.

13.4. You are solely responsible for securing and backing up your content.

14. Rights you are giving us to use material you upload

When you upload or post content to the Platform, you grant us a perpetual, worldwide, non-exclusive, royalty-free, transferable licence to use, reproduce, distribute, prepare derivative works and display that user-generated content in connection with the service provided by the Platform and across different media.

15. General terms

15.1. Communications. We are required to provide certain information to you in writing. By accepting Terms of Platform Use, you agree that we can communicate with you electronically either by email or by posting notices on the Platform.

15.2. Severance. If any of these Terms of Platform Use should be determined to be illegal, invalid, or otherwise unenforceable, it shall be severed and deleted. The remaining Terms of Platform Use shall survive, remain in full force and effect, and continue to be binding and enforceable.

15.3. Waiver. If we fail to insist upon strict performance of any of these Terms of Platform Use, or if we fail to exercise any of the right or remedies to which we are entitled, this will not constitute a waiver of such rights or remedies and will not relieve you from compliance with such obligations. No waiver by us of a breach of obligation arising under these Terms of Platform Use shall constitute a waiver of any other breach.

15.4. Third Party Rights. A party who is not a party to these Terms of Platform Use shall have no rights under the Contract (Rights of Third Parties) Act 1999 or otherwise as a third party to enforce any terms of these Terms of Platform Use save for any parent, subsidiary, or affiliate entity within our group company.

15.5. Entire Agreement. These Terms of Platform Use and any document expressly referred to in it constitute the whole agreement between us and supersede any previous discussions, correspondence, arrangements or understandings between us.

15.6. Law and Jurisdiction. These Terms of Platform Use and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales.

15.7. Any dispute or claim arising out of or in connection with these Terms of Platform Use will be subject to the exclusive jurisdiction of the courts of England and Wales.