

Terms of Service

These terms should be reviewed carefully. If you have any questions about the terms, please get in touch via hello@bloomly.co.uk

1. Introduction

- a. EYFS Yes Ltd is a limited company incorporated in England, with registration number 10732903. You can see more information about EYFS Yes Ltd here: <https://beta.companieshouse.gov.uk/company/10732903>
- b. EYFS Yes Ltd owns the Bloomly software platform. When we talk about “Bloomly”, “Us” or “We”, we mean EYFS Yes Ltd.
- c. The Bloomly software platform encompasses the Bloomly website (<https://bloomly.co.uk>), the website software platform and related mobile applications. When we talk about the “Service”, we mean the Bloomly software platform in its entirety.
- d. When we talk about the “Customer”, we mean the person or organisation who purchases, or takes out a 30-day trial for, the Service, and any individuals who are employed by the Customer.
- e. When we talk about the “Contract”, we mean the contract between the Customer and Bloomly for the supply of the Service, in accordance with these Terms of Service and entered into at the point where the Customer signs up for the Service through our website, and therefore accepts these Terms of Service.

2. The Service

- a. The Service is a web-based application which supports many management activities pertaining to Early Years Settings.
- b. The Service is protected by password-based in-application security, and a two-factor login system for staff members that involves both a password and a pin.

3. Acceptance of the Terms of Service

- a. By using the Service, you accept these Terms of Service, and are bound by their obligations. You also agree that you understand and accept our Privacy Policy, which can be found on our website.

- b. These Terms of Service may be changed at any point by EYFS Yes Ltd. An updated version of these Terms of Service will always be available in the footer of our website, at <https://bloomly.co.uk>. We will always update you when we make such changes.
- c. By continuing to use the Service after such changes, you are accepting these changes and are bound by their obligations.

4. Limits to usage

- a. A software space within the Service may only be created by legally registered Early Years Settings ("Settings), who are Customers of Bloomly.
- b. The Customer must only give access to the software to:
 - i. Individuals who are employed by the Customer, or another Early Years Settings, in some respect.
 - ii. Parents or guardians of children who attend a Setting that is a Customer with Bloomly.
- c. The Customer must not give access to the Service to any individual who is pending trial in the UK or abroad, or who is subject to a restraining order.
- d. The Customer, and any person who has been granted access to the Service by the Customer, must only access the software area created by the Customer, and not any other area including those created by other Customer, or areas created and controlled exclusively by Us.

5. Your obligations

- a. The Customer agrees that any individual given access to the software by the Customer will not share, disclose or otherwise reveal their personal pin or personal password to anyone else, including other employees of the Customer.
- b. The Customer agrees that any individual given access to the software by the Customer will not share, disclose or otherwise reveal the Customer's Setting password to anyone not currently employed by the Setting.
- c. The Customer, and those persons given access to the software by the Customer, agrees not to attempt to interfere with the Our servers in any way, or cause damage to the Service by agreeing not to:
 - i. transmit computer code intended to limit or destroy the functioning of a computer or server, such as viruses or Trojans.

- ii. attempt to gain access to areas of the Service to which they have no right to access.
 - iii. impersonate other people when using the Service.
 - iv. resell or copy the software and Service.
- d. The Customer agrees to follow all data protection laws, and reflect their compliance with these laws in their policies and communications with their own customers, especially pertaining to the Customers's use of the Service.
- e. The Customer agrees to obtain consent from the parents or guardians of a child whose data will be entered the Service. It is also the responsibility of the Customer to inform these parents and guardians that this data will be held by Us, as a 3rd party, and instruct them on exactly how this data will be held according to our Privacy Policy.
- f. The Customer agrees to only grant us access to look at information that is stored within their software area if they have put in place specific policies to inform individuals whose data is stored that we may be granted access for technical support reasons.
- g. The Customer agrees to only upload content into the Service that:
 - i. the Customer has the right to upload, in accordance with Intellectual Property Law;
 - ii. is not illegal in the UK or jurisdiction from which the Service is being accessed;
 - iii. does not breach OFSTED rules;
 - iv. does not encourage terrorism;
 - v. is not pornographic, violent, sexually explicit, racist, homophobic or otherwise offensive in any manner;
 - vi. is not likely to mislead any individual, or cause them to think that the Setting or ou as an individual are in any way affiliated to Bloomly;
- h. Upon the Service being terminated for any reason by the Customer or Bloomly, We will make our best effort to provide you with all data, content and information that you have entered into the Service, in a clear and secure format, and within reasonable time. We reserve the right to define this format. It is the responsibility of the Customer to request this data within 30 days of the Service being terminated, and to store this data in a secure manner. After the data has been transferred to the Customer, the Customer agrees that Bloomly will not be held responsible for this data in any way whatsoever.

6. Our Rights

- a. When providing the Service to Customers, and individuals given access to the software by the Customer, We reserve the right to:
 - i. remove access to the Service at any point without notice if these Terms of Service and other policies referenced within are violated by the Setting or any individual that has been granted access to the service by the Setting;
 - ii. adjust the subscription price for your use of the Service by giving no less than 30 days prior notice before a bill is issued for the subsequent subscription period;
 - iii. view and edit the data stored by any account after having been given permission by the Setting to do so. This access is explicitly used for technical support reasons;
 - iv. change or discontinue the Service at any time by giving no less than 30 days prior notice;
 - v. terminate these Terms of Service for any reason by giving no less than 30 days prior notice;

7. Billing and subscription payments

- a. Bloomly charges a monthly or yearly fee for access to the Service, as outlined when the Customer is signing up for the Service, and enters the Contract.
- b. The Customer may cancel the service at any point within their initial 30-day trial and incur no financial costs whatsoever.
- c. When accessing the software during the trial period, the Setting agrees to be subject to these Terms of Service at all times.
- d. If continuing to use the Service after the trial, the Customer agrees to pay the relevant subscription fee within a reasonable time in accordance with the Contract. If the fee is not paid within reasonable time, We reserve the right to remove access to the software immediately. Your data will not be removed unless we warn you 30 days in advance.
- e. If making a late payment, We reserve the right to charge a statutory interest fee of 8% above the Bank of England reference rate for the given dates that the payment was overdue, at our discretion.
- f. In the event that you wish to cancel your subscription to the software, you will be given access to the software for the remaining duration of your subscription, and future

subscription payments will be cancelled. No refunds will be given for remaining time within a subscription period.

- g. The Customer understands that all fees are non-refundable, although refunds may be issued at the discretion of Bloomly staff members.

8. Limitation of Liability

- a. Except as expressed in clause 7a, Bloomly shall not in any circumstances have any liability for any losses or damages which may be suffered by the Customer (or any person claiming under or through the Customer), whether the same are suffered directly or indirectly, or are immediate or consequential, and whether the same arise in contract, tort (including negligence) or otherwise howsoever, which fall within any of the follow categories:
 - i. special damage, even if Bloomly was aware of the circumstances in which such damage may arise;
 - ii. loss of profits;
 - iii. loss of anticipated savings;
 - iv. loss of business opportunity;
 - v. loss of goodwill;
 - vi. loss or corruption of data, provided that this shall not prevent claims for loss of or damage to the Setting's tangible property that fall within the terms of clause 7c
- b. The total liability of Bloomly, whether in contract, tort (including negligence) or otherwise and whether in connection with the Contract or any collateral contract shall in no circumstances exceed a sum equal to a single subscription payment for the setting (either the monthly or yearly fee, depending on which plan the Customer has signed up for)
- c. The exclusions of 7a do not exclude:
 - i. death or personal injury caused by the negligence of the Company, its directors, its employees or contractors;
 - ii. fraud or fraudulent misrepresentation;
 - iii. breach of the obligations of the Sale of Goods Act 1979, section 2 of the Supply of Goods and Services Act 1982, or any data protection laws that exist in the UK;
 - iv. any other liability which may not be excluded by law.

9. Intellectual property

- a. All content that exists within the Service, except for that content that is submitted and owned by the Customer and people given access to the Service by the Customer, including but not limited to text, graphics, logos, icons images, sound clips, video clips, data compilations, page layout, underlying code and software, is the property of Bloomly.
- b. If Bloomly makes an edit to the functionality of visual representation of the Service, whether this edit is completed by request of a Customer or not, Bloomly will own the Intellectual Property Rights for this edit and any content relating to this edit.

10. Security

- a. The Customer understands that whilst Bloomly has implemented commercially reasonable technical and organisational measures to ensure content uploaded by the Customer and any individual given access to the Service by the Customer is fully secured, We do not guarantee that unauthorised third parties will never be able to undermine and surpass these security measures. Therefore, the Customer and those given access to the Service by the Customer accept that they use the Service at their own risk, and upload content to the Service at their own risk.

11. Privacy

- a. The Customer understands that acceptance of these Terms of Service, and use of the Service, is also governed by Bloomly's Privacy Policy and all other policies which are made available at the footer section of the website <https://bloomly.co.uk> under the "Legal" sub-title.

12. General

- a. These Terms of Service, the Contract and all other aspects of the relationship between Bloomly and the Customer shall be governed by and construed in accordance with the laws of England and Wales.
- b. Any disputes arising in connection with the Service, the Contract, or all other aspects of the relationship between Bloomly and the Customer shall fall within the exclusive jurisdiction of the courts of England and Wales.
- c. The rights and remedies provided in these Terms of Service are in addition to, and not exclusive of, any rights or remedies provided by law.

- d. If it is decided by a court or any legal authority that a term within these Terms of Service is invalid or unlawful, that term will be removed from the Terms of Service to that extent only, such that the remaining terms will continue to be valid to the fullest permissible extent.
- e. Bloomly's failure to enforce these Terms of Service, or exercise a right or remedy according to these Terms of Service, does not constitute a waiver of these Terms of Service. The Customer's failure to exercise a right or remedy according to these Terms of Service shall not be construed as a waiver of that right or remedy.
- f. Neither party shall be in breach of these Terms of Service nor liable for delay in performing or failure to perform any of its obligations under these Terms of Service if this delay or failure is the result of events or circumstances beyond reasonable control.
- g. All notices or communications shall be sent to the Company by recorded delivery post to EYFS Yes Ltd, 18 Brick Lane, Romsey, SO51 8LG, or by email to hello@bloomly.co.uk, and to the Customer by recorded delivery post or by email to the addresses that the Customer has input into the Service. Such notices will be deemed received on receipt.