

Terms of Use

empatext.com/terms

Last Updated and Effective As Of: 10/7/18.

1. Purpose of Terms

This document governs the relationship between “Empatext” (us) and folks who visit or use our services (website, SMS network, etc), whom we call “users” (you). We’re basically setting some ground rules, preconditions for us to provide services to you and for you to use our services.

We have written these Terms for a bunch of legal reasons, such as prevent folks from abusing our services, limit liability, establish ownership of content, etc. We care about the law because it’s how we as a society codify morals and prevent bad behavior. You should care too, so read this carefully!

2. Your Agreement

By accessing or using any service or content provided or managed by us, you agree to be bound by these Terms. Examples: engaging in a text conversation with us or visiting our website.

If you do not agree with the Terms, you are free to reject them, but then you will not be able to use our services.

3. Overview of Conversation Service

Empatext provides a service that matches users with staff (Empatexters) to engage in emotionally supportive conversations. At time of writing, the communication channel is text message, though we may offer other media such as phone calls or virtual reality conferencing in the future.

To participate in our text-based conversation service, you must provide us with your mobile telephone number so that we can engage in a text conversation. Please be aware that in addition to the fee we charge for our service, as listed on our website or otherwise described to you in writing, your carrier’s rates (such as data charges) will still apply.

4. Important Disclaimers

We are not an emergency service. If you are in an emergency, please call 911 or your local authorities.

Our conversation service is intended for emotional support only. Perhaps it’s similar to a comedy show, except hopefully more interactive, personal, deeply meaningful, and with longer-lasting positive effects on your life and well-being.

We do not prescribe medicine, medical treatment, nor medical advice. Our services are not health care services and are not a substitute for health services. Your participation in our services does not constitute or establish a doctor-patient, therapist-client, nor any other sort of confidential or medical relationship.

Our Empatexters are not certified or otherwise qualified to provide you with any kind of medical, emergency, or formal assistance more serious than listening to you or complimenting you. We prefer asking questions over giving advice since we believe that you usually know best, but if we do give advice, it should be taken in the same informal, semi-serious manner as one might treat a restaurant recommendation from an unreliable friend or unfamiliar acquaintance. The information may not be accurate, and you should not depend on it in any way.

Empatext does not promise, represent, nor warrant that our services will:

- a. be error-free, timely, or uninterrupted.
- b. provide or achieve any specific results from your use.
- c. meet your requirements.
- d. be accurate or reliable.

All services and content are delivered on an “as is” and “as available” basis, and Empatext does not promise, represent, nor warrant that any errors will be corrected. Empatext also does not warrant or represent that materials you access through our services will be free of viruses or other harmful features.

Any content you post or transmit publicly or privately is your sole responsibility. We may not monitor or control content supplied to our services by users, and we are not responsible for any such content.

Empatext disclaims:

- a. all warranties, express or implied, including any implied warranties of merchantability, fitness for a particular purposes, or non-infringement.
- b. any responsibility or liability for the accuracy, content, completeness, or legality of information available through our services.
- c. Any responsibility or liability for harm resulting from downloading or accessing information through our services, including harm caused by viruses or similar destructive features.

You expressly agree that use of or reliance on any of our services, content, or materials provided is at your sole risk.

5. User Age Requirement

Our service is intended for users age 18 and older. In compliance with the requirements of the Children’s Online Privacy Protection Act (COPPA), we do not collect any information from any person under 13 years of age. If you are age 13 or younger, you may not download or use our

service or access or provide any content. If you are between the ages of 13 and 18, you may be required to have the consent of a parent or guardian to use our service. We reserve the right to refuse our service to any minor who attempts to use our service without the involvement of an adult.

6. Grant of Rights

Users who visit our website are granted the right to access all areas of the website other than password-protected areas. You may access and view such areas and the content therein for your private, personal, and non-commercial use only, and you may not modify, copy, distribute, or otherwise use the content available in these areas.

Users who participate in our conversation service are granted the right to send and receive information via our service as it pertains to the conversation. Any information obtained via our service is for your private, personal, and non-commercial use only, and you may not modify, copy, distribute, or otherwise use such information.

Empatext personnel including Empatexters are granted all the rights granted to users, and additionally the right to access password-protected areas as well as to participate in the conversation service on the other end. These additional rights may be exercised for Empatext business purposes only. Personnel may not copy, distribute, or otherwise disclose content.

You hereby grant to Empatext a non-exclusive, perpetual, worldwide, royalty-free license to use the information that you provide in connection with participation in our services in order to perform the services. In addition, you hereby acknowledge that Empatext may use such information that it de-identifies and aggregates for its own business purposes.

We may allow users to provide comments or feedback regarding our services. By providing comments or feedback, you grant us the right to use your comments and feedback for the purposes of improving our services. This right shall survive the termination of these Terms.

7. Restrictions

You may not duplicate, publish, display, distribute, modify, or create derivative works from any information or content appearing on services or through channels provided and managed by Empatext (including but not limited to the website and conversation service), unless specifically authorized in writing by Empatext.

8. Acceptable Conduct

You may only use our services for lawful activity, and it is your responsibility to comply with all applicable local, state, and federal laws and regulations. You represent, warrant, and agree that you will not use our services or interact with them in a manner that:

- a. Attempts to indicate in any manner that you have a relationship with Empatext or that Empatext has endorsed you, unless Empatext has provided written permission to do so.
- b. Infringes or violates the intellectual property rights or any other rights of anyone else, including Empatext.
- c. Is discriminatory, hateful, harmful, fraudulent, deceptive, threatening, harassing, abusive, defamatory, obscene, physically dangerous, or otherwise objectionable.
- d. Jeopardizes the security of Empatext or any accounts, users, persons, or things related to Empatext in any way.
- e. Impersonates any person or entity, including any of our employees or representatives.
- f. Attempts, in any manner, to obtain password(s), account(s), or other security information from any other user or person related to Empatext.
- g. Violates the security of any computer network, or cracks any passwords or security encryption codes.
- h. Sends any unsolicited or unauthorized advertising, solicitations, promotional materials, spam, junk mail, chain letters, pyramid schemes, or harvests or collects the email addresses or other contact information of other users or persons related to Empatext for the purpose of sending spam or other commercial messages.
- i. "Crawls," "scrapes," or "spiders" any page, data, area, or portion of or relating to our services or content provided through or on our services (through the use of manual or automated means).
- j. Decompiles, reverse engineers, or otherwise attempts to obtain the source code or underlying ideas or information of or relating to our services.

9. Monitoring and Revocation or Suspension of Use Privileges

Subject to the terms of our Privacy Policy, we reserve the right at any time to monitor your use of our services to determine compliance with these Terms, and to terminate or suspend your use of some or all of our services if you engage in activities that we conclude, in our sole discretion, violate these Terms or our Privacy Policy. We also reserve the right to suspend or terminate any user's access to the services or content at any time and for any reason.

10. Third-Party Services and Content

Our services may contain links to third-party websites. We have no control over such websites and do not assume responsibility nor liability for any content, opinions, or materials available on such websites. We do not endorse the content of any such website, nor do we warrant that such websites will be free of computer viruses or other harmful code that can impact your computer or other web-access device. As stated in Section 4, Important Disclaimers, any use or reliance on any content or materials supplied to you is at your own risk.

11. Application

We may decide, without loss of generality, to provide our services through an application available via the Apple, Inc. ("Apple") App Store. These Terms will still apply to your use of services accessed through the application, and the following additional terms also apply to the application.

- a. Both you and Empatext acknowledge that the Terms are concluded between you and Empatext only, and not with Apple, and that Apple is not responsible for the application or any related content.
- b. The application is licensed to you on a limited, non-exclusive, non-transferable, non-sublicensable basis, solely to be used in connection with our services for your private, personal, non-commercial use, subject to all the terms and conditions of these Terms as they are applicable to our services.
- c. You will only use the application in connection with an Apple device that you own or control.
- d. You acknowledge and agree that Apple has no obligation whatsoever to furnish any maintenance or support services with respect to the application.
- e. In the event of any failure of the application to conform to any applicable warranty, including those implied by law, you may notify Apple of such failure. Upon notification, Apple's sole warranty obligation to you will be to refund to you the purchase price, if any, of the application.
- f. You acknowledge and agree that Empatext, and not Apple, is responsible for addressing any claims you or any third party may have in relation to the application.
- g. You acknowledge and agree that, in the event of any third party claim that the application or your possession and use of the application infringes that third party's intellectual property rights, Empatext, and not Apple, will be responsible for the investigation, defense, settlement, and discharge of any such infringement claim.
- h. You represent and warrant that you are not located in a country subject to a U.S. Government embargo, or that has been designated by the U.S. Government as a "terrorist supporting" country, and that you are not listed on any U.S. Government list of prohibited or restricted parties.
- i. Both you and Empatext acknowledge and agree that, in your use of the application, you will comply with any applicable third part terms of agreement which may affect or be affected by such use.
- j. Both you and Lean On Me acknowledge and agree that Apple and Apple's subsidiaries are third party beneficiaries of these Terms, and that upon your acceptance of these Terms, Apple will have the right (and will be deemed to have accepted the right) to enforce these Terms against you as the third party beneficiaries hereof.

12. Limitation of Liability

To the fullest extent allowed by applicable law, under no circumstances and under no legal theory (including, without limitation, tort, contract, strict liability, or otherwise) shall Empatext be liable to you or any other person for:

- a. any indirect, special, incidental, or consequential damages of any kind, including damages for personal injury, work stoppage, or property damage including computer failure or malfunction.
- b. any amount, in the aggregate, in excess of the greater of \$100 or the amount you have paid us in the twelve months preceding the event giving rise to your claim(s).
- c. any matter beyond our reasonable control.

Some states do not allow the exclusion or limitation of certain damages, so the above limitation and exclusions may not apply to you.

Empatext and any of our personnel or other agents are not responsible for any decisions, or results of the decisions, that you make while, as a result of, or after using our services. This includes whether you choose to seek or not seek health care, or to modify or terminate, based on information provided by our services, specific treatment that you are currently receiving.

13. User Release of Liability and Indemnification

You hereby expressly release Empatext, Empatext personnel (including directors, officers, agents, Empatexters, and other representatives), and any other Empatext affiliates from any and all liability whatsoever for any controversies, claims, suits, injuries, losses, harm, damages, or death arising from or related to your use of our services.

You agree to hold the releasees harmless and to defend and indemnify each of them for all costs, expenses (including reasonable attorney's fees), damages, and liability from third party claims, which arise from, or relate to, your use of our services or your breach of these Terms.

14. Modifications to Terms and Services

We may modify and change these Terms over time. We will not “retroactively” change these Terms, and any modifications we make shall take effect proactively, once you next access our services. Please feel free to print out a copy of these Terms for your records. If you do not agree with the new Terms, you are free to reject them, but then you will no longer be able to use our services. If you use our services in any way after a change of the Terms is effective, your use signifies that you agree to all of the changes.

15. Assignment

These Terms shall not be assignable by you, either in whole or in part. Any purported assignment of your rights under these Terms will be null and void. Empatext reserves the right to assign its rights and obligations under these Terms.

16. Enforceability

If any provision of these Terms is held to be invalid or unenforceable, such provision shall be struck and the remaining provisions shall be enforced. Headings are for reference purposes only and in no way define, limit, construe, or describe the scope or extent of such section. Empatext's failure to act with respect to a breach by you or others does not waive its right to act with respect to subsequent or similar breaches. These Terms set forth the entire understanding and agreement between Empatext and you with respect to the subject matter hereof and supersede any prior or contemporaneous understanding, whether written or oral.

17. Dispute Resolution

These terms are governed by and will be construed under the laws of the State of California, as such laws are applied to agreements made between California residents and performed entirely within the State of California, and without regard to conflicts of law principles or provisions.

The exclusive jurisdiction and venue for any disputes which may arise out of, or relate to, these Terms or your use of our services will be the state and federal courts located in San Diego County, California. You hereby expressly and irrevocably consent to the personal jurisdiction and venue of such courts.

18. Termination and Survival

These terms will continue to apply until terminated by either you or Empatext. You may end your legal agreement with Empatext at any time for any reason or no reason by discontinuing your use of our services. You do not need to specifically inform Empatext when you stop using the services.

The following provisions shall survive the termination of these Terms and shall apply indefinitely:

Section 4, Important Disclaimers

Section 7, Restrictions

Section 10, Third-Party Services and Content

Section 11, Application

Section 12, Limitation of Liability

Section 13, User Release of Liability and Indemnification

Section 15, Assignment

Section 16, Enforceability

Section 17, Dispute Resolution

Section 18, Termination and Survival

Section 19, Relationship to Privacy Policy and Other Contracts

19. Relationship to Privacy Policy and Other Contracts

These terms must be read in conjunction with other agreements into which you may enter concerning our services and our [Privacy Policy](#). The provisions of our Privacy Policy are incorporated herein. To the extent these Terms conflict with the terms of our Privacy Policy, the terms of our Privacy Policy will control. Similarly to the extent that these Terms conflict with the terms and conditions of any specific agreement you enter with us, the terms of such specific agreement will control. If you are an Empatexter or other personnel, to the extent these Terms conflict with the terms of any other agreement that you enter into with Empatext, the terms of the other agreement will control.

20. Contact Us

Questions regarding these Terms of Use and generally all other feedback, comments, requests for technical support, and other communications relating to the services should be directed to the email address hi@empatext.com.