
**MENOPAUSE IN THE WORKPLACE LIMITED (“MIWL”) TERMS AND CONDITIONS FOR LMS-
READY E-LEARNING**

1. Definitions and Interpretation

1.1 In these Terms and Conditions, unless the context otherwise requires, the following expressions have the following meanings:

“Booking Form” means the Booking Form completed by the Customer (whether completed on-line, by hard copy or through our e-learning package) incorporating these Terms and Conditions (or any variation thereof agreed upon by both Parties) which shall govern the provision of the Services;

“Business Day” means, any day (other than Saturday or Sunday) on which ordinary banks are open for their full range of normal business;

“Customer” means the party procuring the Services from MIWL and who is identified in the Booking Form;

“Confidential Information” means, in relation to either Party, information which is disclosed to that Party by the other Party pursuant to or in connection with the Booking Form and the Services, whether orally or in writing or any other medium, and whether the information is expressly stated to be confidential or marked as such. It also includes the Services;

“Data Protection Legislation” means all legislation in force in the UK from time to time relating to data protection and privacy including, but not limited to, the Data Protection Act 2018, EU Regulation 2016/679 General Data Protection Regulation (“GDPR”), The Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations 2019 and any other directly applicable EU regulation relating to data protection and privacy (for as long as, and to the extent that, EU law has legal effect in the UK) and any successor legislation relating to data protection and privacy;

“Fees” means all sums due from the Customer to MIWL with respect to the provision of the Services or otherwise arising and due from the Customer to MIWL;

“Intellectual Property Rights” means (a) any and all rights in any patents, trademarks, service marks, registered designs, applications (and rights to apply for any of those rights) trade, business and company names, internet domain names and e-mail addresses, unregistered trademarks and service marks, copyrights, database rights, know-how, rights in designs and inventions;

(b) rights under licences, consents, orders, statutes or otherwise in relation to a right in paragraph (a);

(c) rights of the same or similar effect or nature as or to those in paragraphs (a) and (b) which now or in the future may subsist; and

(d) the right to sue for past infringements of any of the foregoing rights;

“LMS” Learning Management System

“Services” means those Services set out in Schedule 1

- 1.2 Unless the context otherwise requires, each reference in these Terms and Conditions to:
- 1.2.1 “writing”, and any cognate expression, includes a reference to any communication effected by electronic transmission or similar means;
 - 1.2.2 a statute or a provision of a statute is a reference to that statute or provision as amended or re-enacted at the relevant time;
 - 1.1.3 “these Terms and Conditions” is a reference to these Terms and Conditions as amended or supplemented at the relevant time;
 - 1.1.4 a Clause or paragraph is a reference to a Clause of these Terms and Conditions or to a Clause of the Booking Form, as appropriate; and
 - 1.1.5 a “Party” or the “Parties” refer to the parties in the Booking Form.
- 1.2 The headings used in these Terms and Conditions are for convenience only and shall have no effect upon the interpretation of these Terms and Conditions.
- 1.3 Words imparting the singular number shall include the plural and vice versa.
- 1.4 References to any gender shall include the other gender.
- 1.5 References to persons shall include corporations.

2 Provision of the Services

- 2.1 The Services shall be made available upon receipt of payment. The Customer is bound to receive the Services and pay the agreed fees upon signing the Booking Form.
- 2.2 MIWL shall provide the Services with reasonable skill and care, commensurate with prevailing standards in the sector in the United Kingdom and shall be responsible for ensuring that it complies with all statutes, regulations, byelaws, standards, codes of conduct and any other rules relevant to the provision of the Services.

3 Intellectual Property Rights

- 3.1 MIWL shall retain the ownership of all Intellectual Property Rights in the Services
- 3.2 You acknowledge that all Intellectual Property Rights in the Services are owned by MIWL. You acknowledge that all Intellectual Property Rights existing now or arising in the future shall automatically vest absolutely in MIWL on creation. To the extent that such Intellectual Property Rights do not vest automatically, you hereby assign such past, present and future Intellectual Property Rights to MIWL and to the extent that it is necessary, you shall execute an assignment in favour of MIWL of any and all Intellectual Property Rights which may have accrued to you through your use of the Services.
- 3.3 You shall not do anything that adversely affects MIWL's Intellectual Property Rights in the Services. For the avoidance of doubt and without prejudice to the generality, you MUST NOT do the following
 - 3.3.1 Exploit, use in any way or disclose any part of the Services for which you do not hold a licence.
 - 3.3.2 Alter, adapt, re-purpose, re-sell or amend the Services except as authorised by MIWL in writing;
 - 3.3.3 Reproduce, copy or deal in the Services (in whole or in part) in any way except as authorised by MIWL in writing.
- 3.4 Subject to the terms of the Booking Form and these Terms and Conditions MIWL hereby grants the Customer a non-exclusive, royalty free licence, without any right to grant a sub-licence, to use the Services within and for the staff of the legal entity identified in the Booking Form only.

4 Customer's Obligations

- 4.1 The Customer shall use all reasonable endeavours to provide all information to MIWL that is necessary for MIWL's provision of the Services.
- 4.2 In the event that MIWL requires the decision, approval, consent or any other communication from the Customer in order to continue with the provision of the Services or any part thereof at any time, the Customer shall provide the same in a reasonable and timely manner.

- 4.3 Any delay in the provision of the Services resulting from the Customer's failure or delay in complying with any of the provisions of this Clause 4 shall not be the responsibility or fault of MIWL.

5 Fees, Payment and Other Charges

- 5.1 MIWL shall deliver an invoice 6 [six] weeks from the date of the signing of the Booking Form. The invoice shall be payable within 28 days of the invoice date.
- 5.2 MIWL is not bound to provide the Services if payment is not made in accordance with sub-Clause 5.1 (above).
- 5.3 All payments shall be made in cleared funds without any set-off, withholding or deduction.

6 Liability, Indemnity and Insurance

- 6.1 MIWL's total liability for any loss or damage caused as a result of its negligence shall be limited to the sum of £1,000,000 (one million pounds) inclusive of all elements including, but not limited to costs, VAT and interest
- 6.2 MIWL shall not be liable for any loss or damage suffered by the Customer that results from the Customer's failure to follow any instructions given by MIWL.
- 6.3 Nothing in these Terms and Conditions shall limit or exclude MIWL's liability for death or personal injury.
- 6.4 Neither Party shall be liable to the other by reason of any delay in performing, or any failure to perform, any of that Party's obligations if the delay or failure is due to any cause beyond that Party's reasonable control.
- 6.5 The Services are specifically designed for use only in the United Kingdom and are not to be used in any other jurisdiction without MIWL's express written consent. Accordingly, MIWL shall have no liability whatsoever and of whatever nature and howsoever caused for any losses of any kind arising out of the use or otherwise of the Services outside the United Kingdom.

7 Confidentiality

- 7.1 Each Party shall undertake that, except as provided by sub-Clauses 7.2 and 7.3 or as authorised in writing by the other Party, it shall, at all times;
- 7.1.1 keep confidential all Confidential Information;
- 7.1.2 not disclose any Confidential Information to any other party;
- 7.1.3 not use any Confidential Information for any purpose other than as contemplated by and subject to the terms of the Booking Form;
- 7.1.4 not make any copies of, record in any way or part with possession of any Confidential Information; and

- 7.1.5 ensure that none of its directors, officers, employees, agents, sub-contractors or advisers does any act which, if done by that Party, would be a breach of the provisions of sub-Clauses 7.1.1 to 7.1.4 above.
- 7.2 Either Party may:
 - 7.2.1 disclose any Confidential Information to any governmental or other authority or regulatory body to such extent only as is required by law.
 - 7.2.2 use any Confidential Information for any purpose, or disclose it to any other person, to the extent only that it is at the date of the Booking Form, or at any time after that date becomes, public knowledge through no fault of that Party. In making such use or disclosure, that Party must not disclose any part of the Confidential Information that is not public knowledge.
- 7.3 MIWL may disclose the Customer's Confidential Information to any sub-contractor or supplier of MIWL to the extent that it is necessary for the production of or provision of the Services.
- 7.4 The provisions of this Clause 7 shall continue in force in accordance with these Terms and Conditions, notwithstanding the termination of this agreement for any reason.

8. Termination

- 8.1 MIWL may immediately terminate this agreement by giving written notice to the Customer if:
 - 8.1.1 any undisputed sum owing to MIWL by the Customer is not paid within 7 days of receiving notice that the due date for payment had passed;
 - 8.1.2 the Customer commits any other breach of any of these Terms and Conditions and, if the breach is capable of remedy, fails to remedy it within 7 Business Days after being given written notice giving full particulars of the breach and requiring it to be remedied;
 - 8.1.3 where the Customer is a company, a receiver is appointed, of any of the property or assets of the Customer;
 - 8.1.4 the Customer makes any voluntary arrangement with its creditors or, being a company, becomes subject to an administration order (within the meaning of the Insolvency Act 1986);
 - 8.1.5 the Customer, being an individual or firm, has a bankruptcy order made against it or being a company, goes into liquidation (except for the purposes of bona fide amalgamation or re-construction and in such a manner that the company resulting therefrom effectively agrees to be bound by or assume the obligations imposed on the Customer by the Booking Form);
 - 8.1.6 anything analogous to any of the foregoing under the law of any jurisdiction occurs in relation to the Customer;
 - 8.1.7 the Customer Party ceases, or threatens to cease, to carry on business.

- 8.2 For the purposes of sub-Clause 8.1.2, a breach shall be considered capable of remedy if the Party in breach can comply with the provision in question in all respects.
- 8.3 The rights to terminate the Booking Form shall not prejudice any other right or remedy of either Party in respect of the breach concerned (if any) or any other breach.

2. Effects of Termination

Upon the termination of this agreement for any reason:

- 9.1 Any sum owing by the Customer to MIWL shall become immediately due and payable;
- 9.2 All Clauses which, either expressly or by their nature, relate to the period after the expiry or termination of this agreement shall remain in full force and effect;
- 9.3 Termination shall not affect or prejudice any right to damages or other remedy which either Party may have in respect of the event giving rise to the termination or any other right to damages or other remedy which either Party may have in respect of any breach of this agreement which existed at or before the date of termination;
- 9.3.1 Subject as provided in Clause 10 of the Booking Form and except in respect of any accrued rights neither Party shall be under any further obligation to the other;
- 9.3.2 Each Party shall immediately cease to use, either directly or indirectly, any Confidential Information, and shall immediately return to the other Party any documents in its possession or control which contain or record any Confidential Information; and
- 9.3.3 All Intellectual Property Rights licences granted under Clause 3 above shall terminate and the Customer shall forthwith cease to use, either directly or indirectly, any such Intellectual Property Rights, and shall forthwith return to MIWL any material in its possession or control containing MIWL's Intellectual Property Rights.

10 Data Protection

MIWL will only use the Customer's personal information as set out in MIWL's Privacy Policy, which can be found on our website <https://menopauseintheworkplace.co.uk/privacy-policy/>

If you do not have access to our website, please contact us and we will send you a hard copy.

11 Data Processing

- 11.1 In this Clause 11 and in the Booking Form, “personal data”, “data subject”, “data controller”, “data processor”, and “personal data breach” shall have the meaning defined in Article 4, EU Regulation 2016/679 General Data Protection Regulation (“GDPR”).
- 11.2 Both Parties shall comply with all applicable data protection requirements set out in the Data Protection Legislation. Neither this Clause 11 nor the Booking Form shall relieve either Party of any obligations set out in the Data Protection Legislation and shall not remove or replace any of those obligations.
- 11.3 For the purposes of the Data Protection Legislation and for this Clause 11 and the Booking Form, MIWL is the “Data Processor”, and the Customer is the “Data Controller”.
- 11.4 MIWL may, at any time, and on at least 7 days’ notice, alter the data protection provisions of these Terms and Conditions, replacing them with any applicable data processing clauses or similar terms that form part of an applicable certification scheme.

12 No Waiver

No failure or delay by MIWL in exercising any of its rights under this agreement and/or these Terms and Conditions shall be deemed to be a waiver of that right, and no waiver by MIWL of a breach of any provision of this agreement and/or these Terms and Conditions shall be deemed to be a waiver of any subsequent breach of the same or any other provision.

13 Further Assurance

Each Party shall execute and do all such further deeds, documents and things as may be necessary to carry the provisions of this agreement and/or these Terms and Conditions into full force and effect.

14 Assignment and Sub-Contracting

This agreement shall be personal to the Parties. Neither Party may assign, or otherwise delegate any of its rights thereunder, or sub-contract or otherwise delegate any of its obligations thereunder without the written consent of the other Party, such consent not to be unreasonably withheld.

15 Third Party Rights

No part of this agreement and/or these Terms and Conditions shall confer rights on any third parties and accordingly the Contracts (Rights of Third Parties) Act 1999 shall not apply to the Booking Form.

16 Notices

- 16.1 All notices hereunder shall be in writing and be deemed duly given if signed by, or on behalf of, a duly authorised officer of the Party giving the notice.
- 16.2 Notices shall be deemed to have been duly given:
- 16.2.1 when delivered, if delivered by email; or
 - 16.2.2 on the 2nd business day following mailing, if mailed by national ordinary mail,
 - 16.2.3 In each case notices shall be addressed to the most recent postal address or e-mail address notified to the other Party.

17 Entire Agreement

- 17.1 These Terms and Conditions constitute the entire agreement between the Parties with respect to its subject matter and may not be modified except by an instrument in writing signed by the duly authorised representatives of the Parties.
- 17.2 The Customer shall acknowledge that, in entering into the Booking Form, it does not rely on any representation, warranty or other provision except as expressly provided herein, and all conditions, warranties or other terms implied by statute or common law are excluded to the fullest extent permitted by law.

18 Severance

In the event that one or more of the provisions of this agreement and/or of these Terms and Conditions is found to be unlawful, invalid or otherwise unenforceable, those provision(s) shall be deemed severed from the remainder of this agreement and/or these Terms and Conditions. The remainder of this agreement and/or these Terms and Conditions shall be valid and enforceable.

19 Dispute Resolution

The Parties shall in the first instance attempt to resolve any dispute arising out of or relating to this agreement through negotiations between their appointed representatives who have the authority to settle such disputes.

20 Law and Jurisdiction

- 20.1 This agreement and these Terms and Conditions (including any non-contractual matters and obligations arising therefrom or associated therewith) shall be governed by, and construed in accordance with, the laws of England and Wales.
- 20.2 Any dispute, controversy, proceedings or claim between the Parties relating to this agreement or these Terms and Conditions (including any non-contractual matters and obligations arising therefrom or associated therewith) shall fall within the exclusive jurisdiction of the courts of England and Wales.

SCHEDULE 1

THE SERVICES

The Services shall comprise of the following:

1. The e-learning modules(s) identified in the Booking Form [“the Modules”].
2. The Modules shall be pre-built and packaged in Scorm 1.2 format.
3. All product information, statistics and content will so far as reasonably possible be accurate as at the point of delivery.
4. Once delivered MIWL shall have no further obligation to update the Modules.

Testing

5. The Modules will be tested on an external Moodle LMS prior to delivery.
6. For bespoke or branded modules, or those that have been customised in any way , MIWL will schedule a final review meeting with the Customer in which the final version of the eLearning module(s) will be reviewed and approved by the Customer prior to delivery.

Delivery

7. Delivery will be by digital file, which will be shared with the customer for the Customer to upload into their own LMS.

Support for the Services:

8. Technical Support will be provided by MIWL prior to and during installation onto the Customer’s LMS.
9. Post-Installation it is agreed that the Modules are the Customer’s responsibility and it is for the Customer to upkeep and manage the files in which the Modules are delivered. However, and without any legal obligation to do so, MIWL will answer all reasonable queries and provide any further information reasonably requested.

Customer’s Obligations

10. It is for the Customer to provide a functioning and compatible LMS.

11. It is the Customer's responsibility to upload, configure and maintain the Modules within its LMS

Customisation

12. MIWL offers four (4) versions of each Module, each providing a defined level of customisation, which will be confirmed at the point of purchase.
13. MIWL will work with the Customer to gather all required information and instructions needed to complete the customisation included within the selected option.
14. MIWL is happy to support any requests that fall outside the agreed scope of the selected option; such additional customisation will be subject to an extra charge, which MIWL will confirm and agree with the Customer before proceeding.
15. The Customer is responsible for supplying accurate, complete, and timely information and assets to support customisation, including brand guidelines, images, logos, and text.
16. MIWL is not responsible for delays or errors arising from incomplete, inaccurate, or late submission of required materials.