



THE AGREEMENT commences on purchase of a service or course. It is made between The Mindful Eating Clinic and you, the client. The Mindful Eating Clinic is registered at Yew Tree House, Hope Mansell, Ross on Wye, Herefordshire HR9 5TJ.

NOW IT IS HEREBY AGREED as follows:

## **1. Interpretation**

### **1.1 Definitions:**

<b>Charges:</b>	the charges payable by the Client for the supply of the Services in accordance with clause 5 and as stated on the website.
<b>Commencement date:</b>	begins on the date of purchase of any service or course.
<b>Conditions:</b>	these terms and conditions as amended from time to time in accordance with clause 10.5.
<b>Contract:</b>	the contract is between The Mindful Eating Clinic and the Client for the supply of Services in accordance with these Conditions.
<b>Client:</b>	the person who purchases any Services from The Mindful Eating Clinic.
<b>Intellectual Property Rights:</b>	patents, rights to inventions, copyright and related rights, trade marks, content of materials, video content, business names and domain names, rights in get-up, goodwill and the right to sue for passing off, rights in designs, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how), and all other intellectual property rights in any jurisdiction.
<b>Services:</b>	the services, including additional materials, supplied by The Mindful Eating Clinic to the Client as set out in the details of the service or course, and as per the information communicated in the Discovery call.
<b>Specification:</b>	the description or specification of the Services or course contents provided in writing by The Mindful Eating Clinic to the Client.
<b>Data Protection Legislation:</b>	the UK Data Protection Legislation and any other European Union legislation relating to personal data and all other legislation and regulatory requirements in force from time to time which apply to a party relating to the use of personal data (including, without limitation, the privacy of electronic communications); and the guidance and codes of practice issued by the relevant data protection or supervisory authority and applicable to a party].]

### **1.2 Interpretation:**

- (a) A reference to a statute or statutory provision is a reference to it as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted.



- (b) Any phrase introduced by the terms **including, include, in particular** or any similar expression, shall be construed as illustrative and shall not limit the sense of the words preceding those terms.
- (c) A reference to **writing** or **written** includes email.

## **2. Basis of contract**

- 2.1 The Order constitutes an offer by the Client to purchase Services in accordance with these Conditions.
- 2.2 Any samples, drawings, descriptive matter or advertising issued by The Mindful Eating Clinic, and any descriptions or illustrations contained in The Mindful Eating Clinic's brochures or leaflets, are issued or published for the sole purpose of giving an approximate idea of the Services described in them. They shall not form part of the Contract or have any contractual force.
- 2.3 These Conditions apply to the Contract to the exclusion of any other terms that the Client seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.

## **3. Supply of Services**

- 3.1 The Mindful Eating Clinic shall supply the Services to the Client in accordance with the Specification in all material respects.
- 3.2 The Mindful Eating Clinic shall use all reasonable endeavours to meet any performance dates specified in the Specification], but any such dates shall be estimates only and time shall not be of the essence for performance of the Services.
- 3.3 The Mindful Eating Clinic shall have the right to make any changes to the Services which are necessary to comply with any applicable law or safety requirement, or which do not materially affect the nature or quality of the Services, and shall notify the Client in any such event.
- 3.4 The Mindful Eating Clinic warrants to the Client that the Services will be provided using reasonable care and skill.

## **4. Client's obligations**

- 4.1 The Client shall:
  - (a) Co-operate, to the best of their ability, with The Mindful Eating Clinic in all matters relating to the coaching and Services;
  - (b) Provide The Mindful Eating Clinic with such information as The Mindful Eating Clinic may reasonably require in order to supply the Services, and ensure that such information is accurate in all material respects (this may include medical information);
  - (c) Comply with any additional obligations as set out in the Specification;
- 4.2 If The Mindful Eating Clinic's performance of any of its obligations under the Contract is prevented or delayed by any act or omission by the Client or failure by the Client to perform any relevant obligation The Mindful Eating Clinic:
  - (a) The Mindful Eating Clinic shall not be liable for any costs or losses sustained or incurred by the Client arising directly or indirectly from The Mindful Eating Clinic's failure or delay to perform any of its obligations as set out in this clause 4.2; and



## **5. Charges and payment**

- 5.1 Condition 5.2 shall apply if the Services are to be provided on a time-and-materials basis. Condition 5.3 shall apply if the Services are to be provided for a fixed price. The remainder of this condition 5 shall apply in either case.
- 5.2 Where the Services are provided on a time-and-materials basis:
- (a) the charges payable for the Services shall be calculated in accordance with The Mindful Eating Clinic's standard hourly or programme fee rates as amended from time to time;
  - (b) Charges are payable on booking of the service or course. Charges are not refundable.
- 5.3 Where the Services are provided for a fixed price the total price for the Services shall be the amount set out in the Specification. The total price shall be paid to The Mindful Eating Clinic in full, or in instalments as set out in the Specification. All amounts due under this agreement shall be paid by the Client to The Mindful Eating Clinic in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).

## **6. Intellectual property rights**

All Intellectual Property Rights in or arising out of or in connection with the Services shall be owned by The Mindful Eating Clinic.

- 6.1 The Client shall not sub-license, assign or otherwise transfer the rights granted in this clause 6.

## **7. Limitation of liability**

- 7.1 Nothing in the Contract shall limit or exclude The Mindful Eating Clinic's liability for:
- (a) Death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors;
  - (b) Fraud or fraudulent misrepresentation; or
  - (c) Any other liability which cannot be limited or excluded by applicable law.
- 7.2 Subject to clause 7.1, The Mindful Eating Clinic's total liability to the Client, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, arising under or in connection with the Contract shall be limited to the total Charges paid under the Contract.
- 7.3 This clause 7 shall survive termination of the Contract.

## **8. Data Protection**

- 8.1 Both parties will comply with all applicable requirements of the Data Protection Legislation. This Clause 8 is in addition to, and does not relieve, remove or replace, a party's obligations or rights under the Data Protection Legislation. In this Clause 8, Applicable Laws means (for so long as and to the extent that they apply to the The Mindful Eating Clinic) the law of the European Union, the law of any member state of the European Union and/or Domestic UK Law; and Domestic UK Law means the UK Data Protection Legislation and any other law that applies in the UK.]
- 8.2 The parties acknowledge that for the purposes of the Data Protection Legislation, the Client is the controller and the The Mindful Eating Clinic is the processor.



- 8.3 Without prejudice to the generality of Clause 8.1, the The Mindful Eating Clinic shall, in relation to any personal data processed in connection with the performance by the The Mindful Eating Clinic of its obligations under the Contract:
- (a) ensure that it has in place appropriate technical and organisational measures, reviewed and approved by the Client, to protect against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures (those measures may include, where appropriate, pseudonymising and encrypting personal data, ensuring confidentiality, integrity, availability and resilience of its systems and services, ensuring that availability of and access to personal data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the technical and organisational measures adopted by it);
  - (c) ensure that all personnel who have access to and/or process personal data are obliged to keep the personal data confidential; and
  - (d) not transfer any personal data outside of the European Economic Area unless the prior written consent of the Client has been obtained and the following conditions are fulfilled:
    - (i) the Client or the The Mindful Eating Clinic has provided appropriate safeguards in relation to the transfer;
    - (ii) the data subject has enforceable rights and effective legal remedies;
    - (iii) the The Mindful Eating Clinic complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any personal data that is transferred; and
    - (iv) the The Mindful Eating Clinic complies with reasonable instructions notified to it in advance by the Client with respect to the processing of the personal data;
  - (e) notify the Client without undue delay on becoming aware of a personal data breach;]
  - (g) at the written direction of the Client, delete or return personal data and copies thereof to the Client on termination of the agreement unless required by Applicable Law to store the personal data; and]
  - (h) maintain complete and accurate records and information to demonstrate its compliance with this Clause 8 [and allow for audits by the Client or the Client's designated auditor] and immediately inform the Client if, in the opinion of the The Mindful Eating Clinic, an instruction infringes the Data Protection Legislation.
- 8.5 The Client consents to the The Mindful Eating Clinic appointing a personal assistant as a third party processor of personal data under the Contract. The The Mindful Eating Clinic confirms that it has entered with the third party processor into a written agreement incorporating terms which are substantially similar to those set out in this Clause 8 and in either case which the The Mindful Eating Clinic will continue to reflect the requirements of the Data Protection Legislation. As between the Client and The Mindful Eating Clinic, The Mindful Eating Clinic shall remain fully liable for all acts or omissions of any third party processor appointed by it pursuant to this Clause 8.
- 8.6 Either party may, at any time on not less than 30 days' notice, revise this Clause 8 by replacing it with any applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme (which shall apply when replaced by attachment to the Contract).]]



## **9. Termination**

9.1 Without limiting its other rights or remedies, the Client may terminate the Contract by giving The Mindful Eating Clinic immediate notice.

- (a) The Mindful Eating Clinic commits a material breach of any term of the Contract and (if such a breach is remediable) fails to remedy that breach within 14 days of that party being notified in writing to do so;
- (b) The other party suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business; or
- (c) The other party's financial position deteriorates to such an extent that in the terminating party's opinion the other party's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy.

9.2 Without limiting its other rights or remedies, The Mindful Eating Clinic may terminate the Contract with immediate effect by giving written notice to the Client if the Client fails to pay any amount due under the Contract on the due date for payment and remains in default not less than [14] days after being notified to make such payment.

## **10. General**

### **10.1 Force majeure**

Neither party shall be in breach of this Contract nor liable for delay in performing, or failure to perform, any of its obligations under this Contract if such delay or failure result from events, circumstances or causes beyond its reasonable control.

### **10.2 Confidentiality**

- (a) Each party undertakes that it shall not at any time during the Contract, and for a period of five years after termination of the Contract, disclose to any person any confidential information concerning the business, affairs, Clients, clients or The Mindful Eating Clinics of the other party, except as permitted by clause 10.2(b).
- (b) Each party may disclose the other party's confidential information:
  - (i) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.
- (c) Neither party shall use the other party's confidential information for any purpose other than to perform its obligations under the Contract.

### **10.3 Entire agreement**

10.4 This agreement constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.

### **10.5 Variation**

The Mindful Eating Clinic may revise these terms and conditions at any time and shall notify the Client in any such event.



#### 10.6 **Waiver**

A waiver of any right or remedy is only effective if given in writing and shall not be deemed a waiver of any subsequent breach or default.

#### 10.7 **Severance**

If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable.

#### 10.8 **Notices**

- (a) Any notice given to a party under or in connection with this contract shall be in writing and shall be delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered office.
- (b) This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution. For the purposes of this clause, "writing" shall not include email.

#### 10.9 **Third parties**

No one other than a party to the Contract shall have any right to enforce any of its terms.

#### 10.10 **Governing law**

The Contract, and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by, and construed in accordance with the law of England and Wales.

#### 10.11 **Jurisdiction**

Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with the Contract or its subject matter or formation.

#### 10.12 **Specification**

- a) Coaching shall include one to one sessions conducted face to face or online.
- b) Services shall include eating behaviour, psychology, and generic nutritional and recommended exercise coaching.
- c) Online courses shall be accessed online and available to the Client for the period designated in the Specification.
- d) Nutritional assessment shall include an electronic or printed copy of the results.
- e) All current details shall be detailed on the website or divulged during pre-booking conversation (Discovery call).

The Mindful Eating Clinic 2021