

Senior Mental Health Leads Training Terms & Conditions

Effective from 16th August 2023

These terms and conditions (**Terms**) apply to the provision of the Senior Mental Health Leads Training described at www.myedupod.cod (**Training Course**) and related resources by Innovating Minds CIC (company number 09998435) (**we/us/our**) to the person named in the application form submitted to the training (**you/your**) and, subject to completion of the training accreditation by us, your obligations as an accredited Designated Senior Mental Health Lead.

i. Definitions and interpretation

- a. The definitions and rules of interpretation set out in this clause will apply to this agreement. In this agreement:

Acceptable Use Policy the policy applicable to the use of the Online Services by the Facilitator which is available at www.myedupod.com;

Accredited Lead an individual who we decide, in our sole discretion, has successfully completed the training;

Annual Fee the fee paid by you for continued access to the Resources and Online Services on a yearly basis after the expiry of the 12 months covered by the Initial Fee;

Business Day a day other than a Saturday, Sunday or bank or public holiday in England;

Initial Fee the initial fee paid by you to complete the training and access the Online Services for 12 months;

Membership Term the period beginning on payment of the Initial Fee and ending when you complete the training course;

Resources any content (including documents, guidance, results and audio-visual content), materials, toolkits or other resources provided or made available to you through the Online Services;

Online Services the EduPod online learning portal and Mind Space website or platform which provides access to the Resources;

VAT United Kingdom value added tax and any other tax imposed in substitution for it.

- b. Headings in these terms are included for convenience only and will have no effect on interpretation.
- c. A reference to **this agreement** means the agreement between the parties comprising these terms and any terms contained in an application form.

- d. Any words that follow **include, includes, including, in particular** or any similar words and expressions will be interpreted as illustrative only and will not limit the sense of any word, phrase, term, definition or description preceding those words.
- e. A reference to **writing** or **written** includes email but not any other form of electronic communication.

ii. **Training and accreditation**

- a. Upon completion of the Programme, any decision regarding your accreditation to become an Accredited Senior Mental Health Lead will be at our sole discretion, which will be final.
- b. If you miss more than half a day of the core training:
 - i. as a result of illness or bereavement, then it will be necessary to pause your training and join the next available training group;
 - ii. for a reason other than illness or bereavement, then it may not be possible for you to complete your training to attain accreditation, and if you cannot complete your training in these circumstances, you will not be eligible for a refund of the Initial Fee. We will work with you in good faith to try to book you onto a subsequent training group, but there is no guarantee that this will be possible, and any decision to do so will be at our sole discretion.

If you are moved to an alternative training group for either of the reasons set out above, then you may be liable to pay a reallocation fee (excl. VAT) of our determination (Reallocation Fee). If you miss any part of the course for the reasons set out in clause ii (b)(i) above then we may, at our sole discretion, decide to waive the Reallocation Fee.

- c. For all training courses, you are responsible for completing it in line with guidance issued from the Department for Education. Failure to complete the training within the appropriate timescale will result in you having to begin the training again and to pay a further Initial Fee.
- d. As part of the course, and to be eligible for accreditation, you must have completed a self-assessment audit, an action plan, and the pre and post training evaluation forms. We will sign off the action plan and we will not commence the accreditation review and approval process until evidence has been received to confirm that you have completed the necessary requirements.
- e. If you become an Accredited Lead and for as long as you continue to be an Accredited Lead:
 - i. you agree that we may include your details on a list of Accredited Leads published on our website; and
 - ii. you may use and reproduce the Senior Mental Health Lead materials provided by us on a non-exclusive, non-transferable basis. These logos and materials must not be altered in any way and will at all times remain our intellectual property. We encourage Accredited Leads to use the Senior Mental Health Lead materials in any marketing or promotional materials they produce.

- f. We may suspend or withdraw your status as an Accredited Lead (and the right to continue using the Senior Mental Health Lead materials) for any individual where:
 - i. there is evidence that your policies and processes are not consistent with the requirements for accreditation;
 - ii. we have received a complaint about the approach taken by you, in which case we may make further enquiries of you which you will not be obliged to respond to but from which we may draw any reasonable inferences in relation to any complaint; or
 - iii. you otherwise do or fail to do something which would or might bring us or the training course into disrepute or otherwise tarnish the reputation of us or the training course.
- g. We do not accept any liability arising out of or in connection with the suspension or withdrawal of our status as an Accredited Facilitator.
- h. You acknowledge that nothing in these Terms will make you an agent, officer or employee, worker, or partner of Innovating Minds and you will not hold yourself out as such. You will be an independent self-employed contractor and responsible for paying income tax, National Insurance contributions and any other employment taxes in respect of any income generated by you as an Accredited Lead.

iii. **Access to the Online Services**

- a. We grant you a non-exclusive non-transferable right to access and use the Online Services during the Membership Term. The terms and conditions for the online services can be found at www.myedupod.com.
- b. You acknowledge that the provision of access to the Online Services may take up to 15 Business Days from submission of your application and that your use of the Online Services is subject to your compliance with these Terms.
- c. We will use our reasonable endeavours to ensure that the Online Services are available during the hours of 8am to 8pm on Business Days and will ensure that any maintenance will be undertaken outside those hours unless any maintenance is required in order to maintain the security and integrity of the Online Services.
- d. You acknowledge that we will be entitled to modify the features and functionality of the Online Services at any time.
- e. The Online Services may be subject to delays, interruptions, errors or other problems resulting from use of the internet or public electronic communications networks used by the parties or third parties. You agree that we will not have any liability for any such delays, interruptions, errors or other problems.

iv. **Resources and recommendations**

- a. We will ensure that all Resources have been prepared using reasonable skill and care by mental health practitioners of sufficient qualification and experience.
- b. You are not permitted to share the Resources with any other individual or organisation, other than for the purpose of your own learning, without our express permission.
- c. Subject to clause iv (a)iv.a, we do not make any guarantee, and you acknowledge that no liability or obligation is accepted by us:
 - i. that the Online Services will meet your needs, whether or not such needs have been communicated to us;
 - ii. that any Resources and recommendations provided through the Online Services will achieve any particular outcomes; or
 - iii. that the operation of the Online Services will not be subject to minor errors or defects.
- d. The Online Services may contain hyperlinks or references to third party resources and websites (Third-Party Resources). Any such hyperlinks or references are provided for your convenience only. We do not have any control over Third Party Resources and accept no legal responsibility for any content, material or information contained in them. The display of any hyperlink and reference to any Third-Party Resources does not mean that we endorse such Third-Party Resources. Your use of Third-Party Resources may be governed by the terms and conditions relating to them.
- e. Subject to clauses iv (a)iv.a & (b)iv.c, all warranties, conditions, terms, undertakings or obligations whether express or implied and including any implied terms relating to quality, fitness for any particular purpose or ability to achieve a particular result are excluded to the fullest extent allowed by applicable law.

v. Use of the Online Services

- a. You will ensure that only you have access to the Online Services and that such use is at all times in accordance with the Acceptable Use Policy.
- b. You must keep confidential and not share with any third party the password or access details for the Online Services. If any password has been provided to anyone else, or you think someone else may have discovered them, you will, without delay, disable any such passwords and notify us immediately.
- c. You will comply with all applicable laws, rules, and regulations governing export that apply to the Online Services. You will be solely responsible for ensuring that your access, importation and use of the Online Services in or into any part of the country or territory in which you are located complies with all export and other laws.
- d. We may suspend access to the Online Services if:
 - i. we suspect that there has been any misuse of the Online Services or breach of this agreement or the Acceptable Use Policy;

- ii. you fail to pay any sums due to us by the due date for payment and you have not paid such sums within a period of 5 Business Days of receiving written notice from us; or
 - iii. the conditions detailed in clause iii have not been met.
- e. All fees remain payable during any period of suspension despite the fact you may not have access to the Online Services.

vi. **Fees**

- a. To participate in the Programme, you will pay the Initial Fee and any other charges at the rates and in the manner described in the application form or other documents provided to you. If you benefit from paying any reduced or subsidised Initial Fee (Reduced Initial Fee) then, if within 4 weeks of paying the Reduced Initial Fee you:
- i. fail to attend any part of the training course; or
 - ii. fail to complete the Programme,
- then you will be liable to pay the difference between the Reduced Initial Fee and the Initial Fee that would have been payable if the Initial Fee was not reduced or subsidised.
- b. If you cancel after 14 days of completing the booking form, you will not be eligible for a refund.
- c. Any request to cancel your training must be sent in writing to finance@innovatingmindscic.com and will only be valid once safe receipt of the request has been confirmed.
- d. We will invoice you in advance for all fees due under this agreement and the invoices must be paid within 30 calendar days of the date of each invoice.
- e. All fees and charges are exclusive of VAT which will be payable by you at the rate and in the manner prescribed by law.
- f. We reserve the right to charge interest on overdue invoices at the rate of 2% per year above the base rate of Bank of England, calculated from the date when payment of the invoice becomes due for payment up to and including the date of actual payment whether before or after judgment.
- g. We will be entitled to increase the Annual Fee at any time by written notice to you, provided that we will not be entitled to increase the Annual Fee on less than four weeks' prior notice or more than once every 12 months.
- h. To the extent this agreement terminates or expires, you will not be entitled to any refund or discount of either the Initial Fee or any subsequent Annual Fee.

vii. **Intellectual Property Rights**

- a. All Intellectual Property Rights in and to the Resources and Online Services or in any feedback or suggestions for improvement given you will belong to and will remain vested in us. To the extent that you acquire any Intellectual Property Rights in the Resources and Online Services, you agree to assign or ensure the assignment of such Intellectual Property Rights with full title guarantee to us or such third party as we may direct.
- b. We grant you a non-exclusive non-transferable and non-sublicensable right to copy and use (but not modify) the Resources for your own purposes only.
- c. Except for the rights granted in these Terms, you will not acquire any title, rights of ownership, or Intellectual Property Rights of any nature in the Resources or Online Services and no Intellectual Property Rights of either party are transferred or licensed as a result of this agreement.
- d. This clause vii will survive the termination or expiry of this agreement.

viii. **Confidential Information**

- a. You agree to take all reasonable steps to ensure that any information provided by us that is proprietary or confidential (whether marked as such or whether such information ought reasonably to be treated as confidential) (Confidential Information) to which you have access is held in confidence and will not make it available to any third party, or use it for any purpose other than the implementation of this agreement.
- b. Confidential Information will not, without our prior written consent, be disclosed, copied or modified other than as necessary for the performance of your rights and obligations under this agreement. This clause ix willviii not apply to information which:
 - i. is or comes into the public domain through no fault of your own;
 - ii. is lawfully received by you from a third party free of any obligation of confidence at the time of its disclosure;
 - iii. is independently developed by you, without access to or use of such information; or
 - iv. is required by law, by court or governmental or regulatory order to be disclosed provided that, where possible, you notify us at the earliest opportunity before making any disclosure.
- c. You must give us notice of any unauthorised use, disclosure, theft or loss of the Confidential Information immediately upon becoming aware of the same.
- d. This clause viii will survive the termination or expiry of this agreement for a period of 5 years.

ix. **Data protection**

- a. For the purposes of this clause xii, the terms 'personal data', 'Process', 'Processor' and 'Data Subject' shall have the same meanings as set out in Regulation (EU) 2016/679 (the 'GDPR') as implemented in England & Wales and as amended from time to time.
- b. In connection with the Online Services, you may disclose to us personal data, including the following, relating to children, young people, parents/carers, employees and contractors of yours (the 'Shared Personal Data'):
 - i. contact information (such as name, email address and home/work address);
 - ii. information relating to mental and physical health;
 - iii. information relating to disability, ethnicity, age and gender;
 - iv. information relating to domestic and professional environments (such as relationship information, cohabitees, life events, professional roles and experience); and
 - v. any other information provided to us in the course of providing the Programme.
- c. Each party shall ensure that it processes the Shared Personal Data fairly and lawfully in accordance with:
 - i. the GDPR, the UK Data Protection Act 2018 and any other applicable laws protecting the fundamental rights and freedoms of persons and their right to privacy with regard to the processing of personal data (the 'Data Protection Laws');
 - ii. the information provided to Data Subjects; and
 - iii. any consents obtained from Data Subjects.
- d. You shall ensure that we (and any processors appointed by us) are legally permitted to store and Process the Shared Personal Data in connection with the Online Services including, but not limited to, the following:
 - i. the transfer of any Shared Personal Data to us and the processing of Shared Personal Data by us in accordance with this Agreement will be consistent with the information provided by you to any Data Subjects to whom the Shared Personal Data relates in accordance with articles of 13 and/or 14 of the GDPR (as applicable);
 - ii. where required under Data Protection Laws, you shall obtain valid consent from Data Subjects to whom the Shared Personal Data relates to the transfer of the Shared Personal Data to us and the processing of the Shared Personal Data by us in connection with the provision of the Services, in accordance with the requirements in Article 7 of the GDPR; and
 - iii. The Shared Personal Data shall not relate to any Data Subjects that have exercised a right to erasure of that personal data under Article 17 of the GDPR or a right to object to the processing of that personal data under Article 21 of the GDPR.

x. **Limitation of liability**

- a. Subject to clause xi (b) x.b, our total liability in respect of the provision of the Programme and the Online Services (however arising under or in connection with this agreement) will not exceed an amount equal to the Initial Fee or the Annual Fee actually paid by you in the 12-month period immediately preceding the first incident giving rise to any claim under this agreement.
- b. We will not be liable for any consequential, indirect or special losses, direct or indirect loss of profit, destruction, loss of use or corruption of data, loss or corruption of software or systems, loss or damage to equipment, loss of use, loss of production, loss of contract, loss of opportunity, loss of savings, discount or rebate (whether actual or anticipated) and/or harm to reputation or loss of goodwill.
- c. This clause xx will survive the termination or expiry of this agreement.

xi. **Term and termination**

- a. This agreement will come into force on payment of the Initial Fee and, unless terminated earlier in accordance with its terms, will continue for the duration of the Membership Term after which it will automatically expire.
- b. Either party may terminate this agreement immediately at any time by giving notice in writing to the other party if:
 - i. the other party commits a material breach of this agreement and such breach is not remediable;
 - ii. the other party commits a material breach of this agreement which is not remedied within 10 Business Days of receiving written notice of such breach; or
 - iii. the other party has failed to pay any amount due under this agreement on the due date and such amount remains unpaid within 10 Business Days after the other party has received notification that the payment is overdue.

xii. **Consequences of termination**

- a. Immediately on termination or expiry of this agreement, the rights granted by us under this agreement will terminate and you will:
 - i. stop using the Online Services; and
 - ii. destroy and delete or, if requested by us, return any copies of any Resources that are in your possession or control.
- b. Termination or expiry of this agreement will not affect any accrued rights and liabilities of either party at any time up to the date of termination or expiry and will not affect any provision of this agreement that is expressly or by implication intended to continue beyond termination.

xiii. Notices

- a. Any notice given by a party under this agreement will be in writing and in English, signed by, or on behalf of, the party giving it (except for notices sent by email) and sent to the relevant party at the address set out in the application form.
- b. Notices may be given, and are deemed received: if delivered by hand, on receipt of a signature at the time of delivery; if sent by first-class post, at 9.00 am on the second Business Day after posting; and if sent by airmail or other international delivery, at 9.00 am on the fourth Business Day after posting; or, if sent by email, at the time of transmission.
- c. This clause xiii does not apply to notices given in legal proceedings or arbitration.

xiv. Variation

- a. We reserve the right to make any reasonable variations to this agreement by providing you with written notice, in accordance with clause xvi, which will:
 - i. make clear the date upon which the variation will take effect; and
 - ii. be delivered at least 20 Business Days before the variation will take effect.
- b. You are not permitted to make any variations to this agreement.

xv. General

- a. Entire agreement: This agreement constitutes the entire agreement between the parties and supersedes all previous agreements, understandings and arrangements between them in respect of its subject matter, whether in writing or oral. Each party acknowledges that it has not entered into this agreement in reliance on, and will have no remedies in respect of, any representation or warranty that is not expressly set out in this agreement.
- b. Assignment and sub-contracting: Except as expressly provided in this agreement, we may at any time assign, sub-contract, sub-licence (including by multi-tier), transfer, mortgage, charge, declare a trust of or deal in any other manner with any or all of our rights or obligations under this agreement. Except as expressly permitted by this agreement, you may not assign, transfer, sub-contract, sub-licence, mortgage, charge, declare a trust of or deal in any other manner with any or all of your rights or obligations under this agreement (including the licence rights granted), in whole or in part, without our prior written consent.

- c. No partnership or agency: The parties are independent and are not partners or principal and agent and this agreement does not establish any joint venture, trust, fiduciary or other relationship between them, other than the contractual relationship expressly provided for in it. Neither of us have, nor will represent that either of us has, any authority to make any commitments on the other's behalf.
- d. Severance: If any provision of this agreement (or part of any provision) is or becomes illegal, invalid or unenforceable, the legality, validity and enforceability of any other provision of this agreement will not be affected.
- e. Waiver: No failure, delay or omission by either party in exercising any right, power or remedy provided by law or under this agreement will operate as a waiver of that right, power or remedy, nor will it preclude or restrict any future exercise of that or any other right, power or remedy. No single or partial exercise of any right, power or remedy provided by law or under this agreement will prevent any future exercise of it or the exercise of any other right, power or remedy.
- f. Third party rights: A person who is not a party to this agreement will not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any of its provisions.
- g. Authority: Each party represents and warrants to the other that it has the right, power and authority to enter into this agreement and grant to the other the rights (if any) contemplated in this agreement and to perform its obligations under this agreement.
- h. International business: This agreement applies in countries outside the United Kingdom and its territories. The parties may negotiate in good faith any supplemental terms required by local law.
- i. Governing law and Jurisdiction: This agreement and any dispute or claim arising out of, or in connection with, it, its subject matter or formation (including non-contractual disputes or claims) will be governed by, and construed in accordance with, the laws of England and Wales, and the courts of England and Wales will have exclusive jurisdiction to settle any dispute or claim arising out of, or in connection with this agreement.