

## **eWORKOUT USER TERMS & CONDITIONS**

### **BY REGISTERING FOR THE EWORKOUTS YOU ARE AGREEING TO THESE TERMS AND CONDITIONS IN FULL, PLEASE READ THEM CAREFULLY.**

#### **1. Definitions.** For purposes of these Terms:

1.1. "Account" means Your Portal account and profile, accessed using Your unique username and password.

1.2. "Intellectual Property" or "Intellectual Property Rights" means all intellectual property rights, including all copyright, patent, trade secret, trademark, moral, termination, authorship, rights of publicity, privacy and other proprietary rights.

1.3. "Mind Gym" means Mind Gym plc, a public limited company incorporated in England and Wales under company number 3833448, whose registered office is at 160 Kensington High Street, London, W8 7RG, United Kingdom.

1.4. "Platform" means the online learning platform services provided by Mind Gym accessible through <https://mindgymshopify.learnupon.com/> or any successor or alternative sites we may inform You of or You may be aware of), including all Resources and software in or accessible through the Platform.

1.5. "Portal" means the web-based portal (with its own unique login domain) You use to access the Platform.

1.6. "Resources" means the user manuals, help guides, whether in print, electronic form, help videos or on-line help functions for the Platform made available on the Platform as may be updated from time to time.

1.7. "Revisions" means any updates, upgrades, revisions, changes or alterations to the Platform, Resources and its features and functionality.

1.8. "Terms" means these terms and conditions.

1.9. "You" means an individual that has created an account to have access to and use of the Platform via a specific Portal (and "Your" shall be construed accordingly).

#### **2. Use of Platform and eWorkouts.**

2.1. Subject to these Terms Mind Gym hereby grants You a limited, personal, revocable, non-exclusive, non-transferable right to access and use the Platform via Your Portal to receive courses and training ('eWorkouts') from Mind Gym for Your personal learning and development.

2.2. All rights not expressly granted to You are reserved to Mind Gym.

2.3. The right to electronically display eWorkouts is limited to the display of such eWorkouts primarily to one person at a time.

2.4. The right to retrieve and store machine-readable copies of the eWorkouts materials is limited to the retrieval of a single copy of a reasonable portion of the eWorkout materials and storage of that copy in machine readable form for no more than one year from first access to an eWorkout for one person's exclusive use.

2.5. Subject to these Terms Mind Gym hereby grants You a limited, personal, revocable, non-exclusive, non-transferable right to use the machine readable copies of the eWorkout and any other materials provided by Mind Gym ('Training Materials') for Your personal learning and

development use **and expressly excludes the right to use the Training Materials for running training sessions without Mind Gym's involvement.**

2.6. Except as expressly permitted by Sections 2.4 & 2.5 or the other provisions of these Terms, You must not download any material from the Platform or save any such material to Your computer.

2.7. We reserve the right to discontinue or alter any or all of the eWorkouts and to stop publishing the eWorkouts at any time in our sole discretion without notice or explanation. This will not affect any eWorkout you have already purchased.

2.8. For so long as your Account remains active in accordance with these Terms, and subject to the other provisions of these Terms, you will have access to the eWorkouts for 12 months from the date of purchase. At the end of that period your access to the eWorkout will be automatically cancelled, unless you re-purchase that eWorkout.

2.9. Any eWorkout reviews that you submit for publication on our website shall be subject to the terms of Sections 13 and 14.

### **3. Use Restrictions.**

3.1. Except as expressly permitted by these Terms, You shall not:

3.1.1. duplicate, reproduce, copy, modify, adapt, translate, distribute, sub-license, publish, stream, record, extract, market, lease, make available, sell, rent, make derivative works of, disassemble, reverse compile or reverse engineer or otherwise reduce to human-perceivable form any part of the Platform, eWorkouts and Intellectual Property

therein; or discover or disclose the source code, methods and concepts embodied therein, except as may be allowed by any applicable law notwithstanding contractual prohibition;

3.1.2. store, distribute, post, upload or transmit any content through the Platform that is or is reasonably perceived to be infringing, unlawful or in violation of third- party intellectual property or privacy rights;

3.1.3. introduce any virus, worm, malware, spyware, Trojan horse or other harmful or malicious code to the Platform;

3.1.4. intentionally interfere with or disrupt the integrity or performance of the Platform or eWorkouts;

3.1.5. access and use the Platform in order to (i) build a product or service competitive with the Platform or eWorkouts, (ii) copy any ideas, features, functions or graphics of the Platform or eWorkouts, or (iii) determine whether the Platform is within the scope of any patent;

3.1.6. interfere with any markings on or in the Platform or eWorkouts which refers to Mind Gym or its Licensors or includes any of their trademarks or logos or remove or obscure the copyright notice or other notices in the eWorkout and the eWorkout materials.

3.1.7. use the Platform or eWorkouts for the purposes of direct marketing or promotion to anyone;

3.1.8. exploit the eWorkouts for any commercial purpose;

3.1.9. use the Platform for any illegal, unauthorized or otherwise improper purposes or which would infringe the intellectual property rights therein.

#### **4. Your Responsibilities.**

4.1. Usage. You are responsible for ensuring that Your profile is not used by anyone other than Yourself.

4.2. Account. You are responsible for Your Account. You must not allow any other person to use Your Account to access the Platform and/or eWorkouts. You must contact Mind Gym immediately if You know or suspect Your Account has been accessed by an unauthorized third party or used in breach of these Terms.

4.3. Login details. Your user ID must not be liable to mislead and must comply with the content rules set out in Section 3.1.2. You must keep Your password confidential. You must notify us in writing immediately if you become aware of any disclosure of your password. You are responsible for any activity on our Platform arising out of any failure to keep Your password confidential, and may be held liable for any losses arising out of such a failure.

4.4. Applicable Laws. You shall comply with all applicable laws, regulations, rules and codes with respect to activities relating in any way to Your use or exploitation of the Platform.

4.5. You must ensure that all the information You supply to us through our Platform, or in relation to our Platform or eWorkouts, is true, accurate, current, complete and non-misleading.

4.6. If You purchase an eWorkout you will expressly agree to these Terms in the course of a

business or other organisational project, then by so doing You bind both:

(a) Yourself; and

(b) the person, company or other legal entity that operates that business or organisational project,

to these Terms, and in these circumstances references to "You" in these Terms are to both the individual user and the relevant person, company or legal entity, unless the context requires otherwise.

#### **5. Access**

5.1. You are solely responsible for supplying all equipment, Internet access and bandwidth needed to properly access and use the Platform and eWorkouts.

#### **6. Support.**

6.1. Resources are available on the Platform for support and reference.

#### **7. Revisions.**

7.1. Revisions may be made to the Platform. Any such Revisions shall be considered part of the Platform for all purposes of these Terms.

#### **8. Suspension or Termination.**

8.1. Suspension: Your right of access or use of any portion or all of the Platform or eWorkouts may be restricted or suspended (on a temporary or permanent basis) and/or Your Account may be deleted in our sole discretion where we have

reason to believe that You may be in breach of these Terms.

8.2. Cancellation. You may cancel Your account on our Platform using Your account control panel.

8.3. Termination. Mind Gym will stop Your access to each eWorkout one year after the purchase date and more generally Mind Gym has the right, in its sole discretion, to stop Your access to the eWorkouts for any reason if You breach these Terms.

8.4. Upon termination You shall immediately cease any further use of the Platform. Termination does not affect or prejudice any rights, remedies, obligations or liabilities a party accrued up to the date of termination or expiration or the continuation or commencement of any provision that expressly or by implication is intended to survive the termination or expiration of these Terms.

## **9. Intellectual Property.**

9.1. You acknowledge that the Platform and eWorkouts and all Intellectual Property contained therein is proprietary to Mind Gym and its licensors, and Mind Gym and its licensors retain exclusive ownership of the same throughout the world. Except for the limited express license granted to You under these Terms, Mind Gym and its licensors retain all right, title or interest in and to the Platform and eWorkouts.

9.2. You acknowledge and agree that any ideas, enhancements, improvements, additions or modifications to the Platform or eWorkouts, suggested by You, and any and all Intellectual Property Rights contained therein, will become

Mind Gym property, and You hereby assign and agree to assign any and all right, title and interest to any rights in such suggestions to Mind Gym.

## **10. Warranties.**

10.1. The Platform shall perform materially in accordance with the Resources. Mind Gym does not guarantee that use of the Platform (including Your Portal) and the eWorkouts will be uninterrupted or error free at all times and in all circumstances. Mind Gym does not warrant that the Platform or eWorkouts will meet any particular training or other requirements, or it will be suitable for any particular purpose.

10.2. We do not warrant or represent the completeness or accuracy of the eWorkouts or that the material is up to date.

10.3. Except as provided for in section 10.1 to the maximum extent permitted by applicable law and subject to Section 11.2, Mind Gym excludes all representations and warranties of any kind whether express, implied, statutory or otherwise, and specifically disclaims the implied warranties of non-infringement, title, merchantability or fitness for a particular purpose. The Platform and the eWorkouts are provided "as is".

## **11. Liability.**

11.1. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT WILL MIND GYM BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOSS OF PROFITS, REVENUES, GOODWILL, BUSINESS OR BUSINESS OPPORTUNITY, ANTICIPATED SAVINGS OR WASTED MANAGEMENT TIME, WORK

STOPPAGE, LOSS, DELETION OR CORRUPTION OF CONTENT OR DATA, COMPUTER FAILURE OR MALFUNCTION, OR ANY AND ALL OTHER COMMERCIAL DAMAGES OR LOSSES, EVEN IF ADVISED OF THE POSSIBILITY THEREOF, AND REGARDLESS OF THE LEGAL OR EQUITABLE THEORY (CONTRACT, TORT OR OTHERWISE) UPON WHICH THE CLAIM IS BASED.

11.2. NOTHING IN THESE TERMS SHALL LIMITED OR EXCLUDE LIABILITY FOR DEATH OR PERSONAL INJURY RESULTING FROM NEGLIGENCE AND FRAUD OR FRAUDULENT MISREPRESENTATION OR ANY LIABILITY THAT MAY NOT BE LIMITED OR EXCLUDED UNDER APPLICABLE LAW, MIND GYM.

11.3. WITH THE EXCEPTION OF DEATH OR PERSONAL INJURY RESULTING FROM NEGLIGENCE AND FRAUD OR FRAUDULENT MISREPRESENTATION, AND TO THE EXTENT PERMITTED BY LAW, MIND GYM AND ITS LICENSOR'S AGGREGATE LIABILITY UNDER THESE TERMS SHALL NOT EXCEED THE AMOUNT PAID FOR THE USE OF THE PLATFORM AND EWORKOUTS.

11.4. YOU INDEMNIFY MIND GYM AGAINST ANY CLAIMS, EXPENSES, DAMAGES, COSTS AND LIABILITY RECEIVED OR INCURRED BY US RESULTING FROM YOUR USE OF THE PLATFORM AND EWORKOUTS OR BREACH BY YOU OF ANY OF THE PROVISIONS OF THIS AGREEMENT.

## 12. **Data.**

12.1. In this paragraph "Data Protection Legislation" means all laws, regulations, legislative and regulatory requirements and codes of practice applicable to the processing of personal data in connection with this Agreement including, without

limitation, the United Kingdom Data Protection Act 2018 and any regulations, instruments or codes of practice issued pursuant to that Act, the European Union General Data Protection Regulation (Regulation (EU) 2016/679) and any successor legislation replacing, repealing or amending those laws.

12.2. Mind Gym shall comply with its obligations under the Data Protection Legislation in respect of its processing of personal data in connection with this Agreement.

12.3. Mind Gym's [Store Front privacy notice](#) and the [full Mind Gym privacy notice](#) explain how Mind Gym collects, uses and protects Your personal data when You use the Platform and eWorkouts.

## 13. **Our rights to use your content**

13.1. In these terms and conditions, "your content" means all works and materials (including without limitation text (for example, reviews of eWorkouts), graphics, images, audio material, video material, audio-visual material, scripts, software and files) that you submit to us or our website for storage or publication on, processing by, or transmission via, our website.

13.2. You grant to us a worldwide, irrevocable, non-exclusive, royalty-free licence to use, reproduce, store, adapt, publish, translate and distribute your content in any existing or future media.

13.3. You grant to us the right to sub-license the rights licensed under Section 13.2.

13.4. You grant to us the right to bring an action for infringement of the rights licensed under Section 12.2.

13.5. You hereby waive all your moral rights in your content to the maximum extent permitted by applicable law; and you warrant and represent that all other moral rights in your content have been waived to the maximum extent permitted by applicable law.

13.6. You may edit your content to the extent permitted using the editing functionality made available on our website.

13.7. Without prejudice to our other rights under these terms and conditions, if you breach any provision of these terms and conditions in any way, or if we reasonably suspect that you have breached these terms and conditions in any way, we may delete, unpublish or edit any or all of your content.

#### **14. Rules about your content**

14.1. You warrant and represent that your content will comply with these terms and conditions.

14.2. Your content must not be illegal or unlawful, must not infringe any person's legal rights, and must not be capable of giving rise to legal action against any person (in each case in any jurisdiction and under any applicable law).

14.3. Your content, and the use of your content by us in accordance with these terms and conditions, must not:

14.3.1. be libellous or maliciously false;

14.3.2. be obscene or indecent;

14.3.3. infringe any copyright, moral right, database right, trade mark right, design right, right in passing off or other intellectual property right;

14.3.4. infringe any right of confidence, right of privacy or right under data protection legislation;

14.3.5. constitute negligent advice or contain any negligent statement;

14.3.6. constitute an incitement to commit a crime, instructions for the commission of a crime or the promotion of criminal activity;

14.3.7. be in contempt of any court or in breach of any court order;

14.3.8. be in breach of racial or religious hatred or discrimination legislation;

14.3.9. be blasphemous;

14.3.10. be in breach of official secrets legislation;

14.3.11. be in breach of any contractual obligation owed to any person;

14.3.12. depict violence in an explicit, graphic or gratuitous manner;

14.3.13. be pornographic, lewd, suggestive or sexually explicit;

14.3.14. be untrue, false, inaccurate or misleading;

14.3.15. consist of or contain any instructions, advice or other information which may be acted upon and could, if acted upon, cause illness, injury or death, or any other loss or damage;

14.3.16. constitute spam;

14.3.17. be offensive, deceptive, fraudulent, threatening, abusive, harassing, anti-social, menacing, hateful, discriminatory or inflammatory; or

14.3.18. cause annoyance, inconvenience or needless anxiety to any person.

## **15. Miscellaneous.**

15.1. Force Majeure. Mind Gym shall not be deemed to be in default of these Terms if it is prevented, hindered or delayed in performing its obligations by acts, events, omissions or accidents beyond its reasonable control.

15.2. Waiver. No delay or neglect on Mind Gym's part in enforcing any provision of these Terms is a waiver and does not in any way prejudice its right under these Terms.

15.3. Third Party Beneficiaries. A contract under these Terms is for our benefit and Your benefit and is not intended to benefit or be enforceable by any third party. The exercise of the parties' rights under a contract under these Terms is not subject to the consent of any third party.

15.4. Variation. We may revise these Terms from time to time. The revised Terms shall apply to the use of our website from the date of publication of the revised Terms on the website, and You hereby waive any right You may otherwise have to be notified of, or to consent to, revisions of these Terms

15.5. Survival. For avoidance of doubt, any provision in these Terms which by its nature is intended to survive, shall remain in effect following Termination.

15.6. Severability. If a provision of these Terms is determined by any court or other competent authority to be unlawful and/or unenforceable, the

other provisions will continue in effect. If any unlawful and/or unenforceable provision of these Terms would be lawful or enforceable if part of it were deleted, that part will be deemed to be deleted, and the rest of the provision will continue in effect.

15.7. Assignment. You hereby agree that we may assign, transfer, sub-contract or otherwise deal with our rights and/or obligations under these Terms - providing, if You are a consumer, that such action does not serve to reduce the guarantees benefiting You under these Terms. You may not without our prior written consent assign, transfer, sub-contract or otherwise deal with any of Your rights and/or obligations under these Terms.

15.8. Entire Agreement. Subject to Section 11 (limitation of liability) these Terms, together with our privacy and cookies policy, shall constitute the entire agreement between You and us in relation to Your use of our website and shall supersede all previous agreements between You and us in relation to Your use of our website.

15.9. Statutory and regulatory disclosures. We will not file a copy of these Terms specifically in relation to each user or customer and, if we update these Terms, the version to which You originally agreed will no longer be available on our website. We recommend that You consider saving a copy of these Terms for future reference.

15.10. VAT. Our VAT number is 756425612.

15.11. Language. These Terms are available in the English language only.

15.12. Governing Law. These Terms will be governed by English laws and You and Mind Gym

submit to the exclusive jurisdiction of the English Courts.

15.13. Questions or notices for Mind Gym can be sent to [marketing@themindgym.com](mailto:marketing@themindgym.com).



