



MIO Recipient Agreement - Terms and Conditions

In the following terms and conditions, you are referred to as either “You” or the “Recipient,” and we are referred to as “March of Dimes” or “MOD.” Leading the fight for the health of all moms and babies, March of Dimes offers a portfolio of programs (the “Program(s)”) for various audiences. You are being provided access to Program(s) pursuant to a “Mission Investment Opportunity Recipient Agreement” (the “Recipient Agreement”) you have entered into with MOD. By entering into the Recipient Agreement, and by accepting the Program services, you agree to the following terms and conditions.

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I. GENERAL PROGRAM TERMS.

OPERATION AND ACCESS.

Operation. MOD offers its Program(s) for informational and educational purposes only. MOD retains full discretion over Program content, structure, and operations of, and reserves the right to modify, any Program.

Availability of Program. MOD will make the Program available for use by Recipient as provided in these Terms and Conditions and in the Recipient Agreement and accompanying relevant Program Appendix.

Informational and Educational Use. The Program is provided for informational and educational purposes only and is not a substitute for professional medical advice and treatment. No medical care, medical advice, or health risk assessments will be provided by MOD in connection with the Program.

Cooperation. Recipient agrees to provide all necessary and reasonably requested information, direction, and cooperation to enable MOD to provide the Program(s). Recipient acknowledges and agrees that MOD shall use all information and data supplied by Recipient (or on its behalf) without independently verifying the accuracy, completeness, or timeliness of such information or data. MOD will not be responsible for any delays or liability arising from missing, delayed, incomplete, inaccurate, or outdated information and data or if Recipient does not provide adequate access to its employees, agents, or other representatives necessary for MOD to provide the Program(s).

ADDITIONAL PAYMENT TERMS.

Payment Delinquency. MOD reserves right to terminate or suspend Program access if payment of Program Fees is delinquent by thirty (30) days (or more) from the date due. MOD agrees to provide Recipient with written notification before terminating or suspending Program access.

Taxes. Recipient shall be responsible for all applicable sales, use, and other taxes and all applicable duties, levies, and export fees and similar charges imposed by any federal, state, or local government entity on fees paid under this Agreement, excluding taxes based solely upon MOD income.

INTELLECTUAL PROPERTY RIGHTS.

March of Dimes Rights. MOD shall retain all right, title, and interest in and to any and all of its copyrights, trademarks, trade names, specifications, documentation, user interfaces, and other

intellectual property, including all content and information contained in the Program(s) and related materials and data generated or provided by the Program(s) (“**MOD Intellectual Property**”). MOD grants Recipient a limited, non-exclusive, non-transferable, non-sublicensable license during the term of the Program Service(s) to access and use the MOD Intellectual Property solely in connection with the use of the Program(s). This license will terminate upon expiration or earlier termination of this Agreement. Recipient and End Users (as defined below) may not reproduce, copy, redistribute, transmit, assign, sell, broadcast, rent, share, modify, adapt, edit, create derivative works of, license, or otherwise transfer or use any of MOD Intellectual Property without MOD’s prior written permission.

Recipient Intellectual Property. Recipient shall retain all right, title and interest in and to any intellectual property provided by Recipient to MOD in connection with this Agreement (the “**Recipient Intellectual Property**”). Recipient grants MOD a limited, non-exclusive, royalty free, transferable, sublicensable license during the term of this Agreement to use, reproduce, electronically distribute, publicly display the Recipient Intellectual Property *solely and only* to the extent necessary for MOD to fulfill its obligations under this Agreement.

Rights Reserved. Any rights not specifically granted by this Agreement shall, as between Recipient and MOD, be reserved to and remain with MOD. The Agreement shall not be construed to confer any additional rights upon Recipient, whether by implication, estoppel or otherwise.

Promotion and Marketing. Neither party shall publish, distribute, or use the logo, trademark, trade dress, or name of the other party for the purpose of publicity or promotion, making a news release, or for products or service endorsement without the other party’s prior written approval. In the event a party provides such consent, the other party agrees to use the representative logo to be provided by the permitting party and to abide by the permitting party’s trademark usage guidelines. Provided, however, that MOD is authorized to publish Recipient’s name and logo in a list of customers.

CONFIDENTIALITY.

Confidentiality Information. During the term of this Agreement, either party may disclose Confidential Information to the other party in furtherance of the provision of the Program.

“Confidential Information” means any and all technical, business, and other information that derives value, economic or otherwise, actual or potential, from not being generally known to the public or other third parties who can obtain value from its use or disclosure, including without limitation, technical or nontechnical data, devices, methods, drawings, processes, financial data or plans, donor lists, and information regarding strategies, business plans, operations, or marketing. “Confidential Information” includes information disclosed or owned by third parties that is treated by the disclosing party as confidential or that the disclosing party is required to treat as confidential, whether such obligation is contractual or arises by operation of law.

Use of Confidential Information. Each party agrees not to disclose, copy, modify, distribute, or otherwise transfer the other

party's Confidential Information, or any part thereof, to any other person at any time, except as specifically permitted by this Agreement. Each party may disclose the Confidential Information of the disclosing party to its employees, contractors, or agents who have a specific need to know in order to perform the receiving party's obligations hereunder, each of whom is notified in writing of the confidentiality obligations as provided herein. Each party is responsible for its employees', contractors', and agents' actions with respect to the other party's Confidential Information. Each party shall use the other party's Confidential Information only to fulfill its obligations hereunder and not for any other purpose. Except for Confidential Information that constitutes sensitive personal information (the disclosure of which is prohibited under other federal or state data security or privacy laws) or which constitutes a trade secret under law, the obligations and restrictions set forth in this Agreement shall not apply to any Confidential Information that the receiving party can establish by credible written evidence: (i) is or becomes part of the public domain without breach of this Agreement by the receiving party; (ii) is lawfully in the possession of a receiving party, without restriction, prior to receiving it from the disclosing party; (iii) is independently developed by or for a receiving party without use of, or reference to, Confidential Information; (iv) is received from a third party who lawfully acquires such information without restriction, and without breach of this Agreement by a receiving party; and/or (v) is released pursuant to a binding court order or government regulatory agency, provided that the receiving party delivers a copy of such order or action to the other party and cooperates with the other party if it elects to contest such disclosure.

Data Security. Each of MOD and Recipient agree to comply with our respective obligations arising from data protection and privacy laws in effect from time to time as applicable to the Programs. This includes, without limitation, (i) the obligation, if any, of Recipient to obtain any required consent(s) with respect to the transfer of information to MOD relating to an identified or identifiable individual that is subject to applicable data protection, privacy, or other similar laws ("**Personal Information**") and (ii) any obligation with respect to the use, disclosure and transfer by MOD of Personal Information as necessary to provide the Program or as expressly permitted under this Agreement. MOD agrees that it will handle such Personal Information consistent with the terms of this Agreement, including any relevant Program Appendix, and for purposes of providing the Program.

USER DATA; PROGRAM DATA.

End Users. "**End User**" means a Recipient's individual administrator or any Recipient Program participant who is authorized to and registers for the Program. When using a Program, End Users may provide MOD with information, including personal information ("**User Data**").

Permitted Use of User Data. MOD may use User Data solely for providing the Program and such other limited uses as are expressly permitted by the Agreement. If an End User separately consents to MOD's use of his/her User Data for additional purposes, MOD agrees it will use the User Data solely as consented. MOD and Recipient acknowledge that an End User may also engage with MOD outside of a Program (whether by contacting MOD, attending a MOD event, volunteering for or donating to MOD, or in some other context), in which case MOD may use such User's information either as consented or as permitted by MOD's Privacy Policy (available at www.marchofdimes.org/policy.aspx).

Program Data. Recipient hereby provides MOD with a perpetual, non-exclusive, revocable, royalty-free license and authorization to aggregate and anonymize User Data and Program performance data (e.g., End User surveys, courses

completed, course results, etc.) and utilize such aggregated or anonymized information and statistical usage data for purposes including, for example, evaluating the Program and reporting on Program performance (including, *inter alia*, to third party funders, when relevant).

WARRANTIES.

Limited Warranty. MOD represents and warrants that the Program will substantially conform to the descriptions set forth in this Agreement (including the Program Appendices). In the event of a breach of the foregoing warranty, as Recipient's exclusive remedy and MOD's sole liability, MOD shall, at its option, (a) correct the nonconforming component of the Program or reperform the nonconforming services, or (b) refund to Recipient the fees paid for the nonconforming services or component of the Program during the period of non-conformance.

WARRANTY DISCLAIMER. THE FOREGOING LIMITED WARRANTY IS THE SOLE AND EXCLUSIVE WARRANTY MADE BY MOD WITH RESPECT TO THE PROGRAMS, WHICH ARE PROVIDED "AS IS" AND WITHOUT ANY OTHER WARRANTY OF ANY KIND, EITHER EXPRESS OR IMPLIED. MOD SPECIFICALLY DISCLAIMS, TO THE MAXIMUM EXTENT ALLOWED BY LAW, ALL STATUTORY AND IMPLIED WARRANTIES INCLUDING FITNESS FOR A PARTICULAR PURPOSE, MERCHANTABILITY, OR ACCURACY OF DATA. MOD DOES NOT WARRANT THAT THE PROGRAM WILL BE UNINTERRUPTED OR ERROR FREE.

INDEMNIFICATION.

Mutual Indemnity. Each party (an "**Indemnitor**") hereby agrees, at its own expense, to defend, indemnify, and hold harmless the other party and its employees, directors, officers, volunteers, affiliates, and agents ("**Indemnified Parties**") from and against any damages awarded to (or agreed upon in a settlement with) a third party in any third-party allegation, claim, action, litigation, suit, arbitration, or other proceeding (each, an "**Action**") against Indemnified Parties to the extent such damages were directly caused by: (i) Indemnitor's violation of Laws or regulations; (ii) Indemnitor's gross negligence or intentional misconduct; or (iii) Indemnitor's breach of this Agreement.

Conditions of Indemnity. The Indemnification obligations set forth above are conditioned on the Indemnified Party providing the Indemnitor: (i) prompt notice of any such Action for which indemnity is sought; (ii) sole control over the defense and settlement of such Action; provided that the Indemnitor will not settle the Action in any way that adversely affects the rights of the Indemnified Party without the Indemnified Party's prior written consent; and (iii) all reasonable assistance in the defense of such Action, at the Indemnitor's reasonable expense.

Limitation of Liabilities. IN NO EVENT WILL MOD BE LIABLE IN CONNECTION WITH THIS AGREEMENT UNDER ANY LEGAL OR EQUITABLE THEORY, INCLUDING BREACH OF CONTRACT, TORT, STRICT LIABILITY, INDEMNITY, OR OTHERWISE, FOR ANY: (a) INDIRECT, CONSEQUENTIAL, INCIDENTAL, EXEMPLARY, SPECIAL, ENHANCED, OR PUNITIVE DAMAGES; (b) LOSS OF GOODWILL OR REPUTATION; (c) USE, INABILITY TO USE, LOSS, INTERRUPTION, DELAY OR RECOVERY OF ANY DATA, OR BREACH OF DATA OR SYSTEM SECURITY AND ANY THIRD PARTY CLAIMS BASED ON LOSS OF DATA, SECURITY BREACH, OR INFRINGEMENT; IN EACH CASE REGARDLESS OF WHETHER RECIPIENT WAS ADVISED OF THE POSSIBILITY OF SUCH LOSSES OR DAMAGES OR SUCH LOSSES OR DAMAGES WERE OTHERWISE FORESEEABLE. IN NO EVENT WILL MOD'S AGGREGATE

LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT EXCEED THE TOTAL AMOUNTS PAID TO MOD UNDER THIS AGREEMENT IN THE ONE YEAR PERIOD PRECEDING THE EVENT GIVING RISE TO THE CLAIM.

HOUSEKEEPING.

Compliance with Law. Each party will at all times comply with all laws and regulations applicable to its activities in connection with this Agreement (“**Laws**”), including without limitation state and federal laws related to tax, privacy, data security, labor, employment and nondiscrimination.

Conflicts. Neither party will offer or provide to the employees, agents, or other representatives of the other party any favors, gifts, payments, employment, or anything of value, nor enter any other business transactions, which might create (or create the appearance of) a conflict of interest. Each party agrees to immediately report to the other party any requests made for favors, gifts, payments, or anything of value by employees, agents, or other representatives of such party or any employment relationships or business transactions between the parties and/or their employees, agents, or other representatives which might create (or create the appearance of) a conflict of interest and will cooperate with any inquiry or investigation into such activities or alleged activities.

Termination. Either party may terminate this Agreement if the other materially breaches any of its obligations hereunder and fails to cure such breach within thirty (30) days of receiving written notice of such breach specifying the nature of such breach.

Governing Law. The validity, construction and enforceability of this Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Virginia, without regard to conflicts of law provisions thereof. Jurisdiction and venue for all disputes hereunder shall be in Arlington County, Virginia, and the parties hereby expressly agree to such exclusive jurisdiction and venue.

Force Majeure. In no event shall MOD or Recipient be liable or be deemed to be in breach of this Agreement, for any failure or delay in performing its obligations under this Agreement, if and to the extent such failure or delay is caused by any circumstances beyond the reasonable control of the party claiming the benefit of this provision, including acts of God, civil commotion, war, strikes, labor disputes, third party Internet service interruptions or slowdowns, vandalism or “hacker” attacks, epidemics or pandemics, acts of terrorism, or governmental demands or requirements. A party claiming the benefit of this provision shall, as soon as reasonably practicable after the occurrence of any such event, (a) provide written notice to the other party of the nature of the Force Majeure condition and the extent and anticipated duration of any delay; and (b) use commercially reasonable efforts to remove any such causes and resume performance under this Agreement as soon as reasonably practicable.

Enforcement. Each party agrees that the other party may be irreparably harmed, and money damages may be inadequate compensation, in the event that a party breaches the confidentiality or intellectual property provisions of this Agreement. Either party shall be entitled to seek injunctive relief (without the obligation to post a bond) against the other party, in addition to all other remedies available under law, in the event of the misuse or infringement of the other party’s Confidential Information or intellectual property.

Assignment. Recipient may not assign, delegate, transfer, or otherwise encumber this Agreement or any portion thereof, without MOD’s prior written consent. Recipient acknowledges and agrees that MOD is permitted to utilize subcontractors and

vendors to support its provision of the Program to Recipient and Program Participant (including End Users).

Miscellaneous. If any provision of this Agreement is determined to be invalid, void, or unenforceable, the remaining provisions shall remain in full force and effect. The waiver by either party of any default or breach of this Agreement shall not constitute a waiver of any other default or breach or any subsequent default or breach. The parties agree that certain obligations under this Agreement, which by their nature would continue beyond the termination or expiration of this Agreement, will survive termination or expiration of this Agreement, including obligations pertaining to intellectual property, limitations of liability, indemnification, and confidentiality. Whenever used in this Agreement, the singular form of any term includes the plural form and the plural form includes the singular form (e.g., Program or Programs).

II. E-LEARNING TERMS AND CONDITIONS. Additional terms applicable to the following MIO Programs: (1) Health Equity Education (E-Learning and E-Learning Student Bundle); (2) Professional Education (E-Learning); and (3) Becoming a Mom® (E-Learning)

Access to Program. For the Subscription Term for the relevant Program, MOD grants Recipient and its End Users a limited, non-transferable, non-assignable, non-sublicensable, non-exclusive license to access the Program. In the event the Recipient and its End-Users do not utilize the program within the subscription term timeframe, MOD retains the right to keep payment and conclude performance.

Availability of Program. MOD will launch the Program for use by Recipient and its authorized employees following execution of the Agreement and receipt by MOD of required set-up information. Following launch, MOD shall make the Program available to End Users throughout the Subscription Term, except for reasonable periods of maintenance. If Recipient is unable to access or use the Program at any time, or Recipient identifies a substantial issue or problem relating to the Program, Recipient shall promptly notify the Primary MOD Contact. MOD agrees to use commercially reasonable efforts to resolve any such lack of access or use issues.

Restrictions. Recipient shall not, and shall not permit any third party or End User(s) to: reverse engineer, decompile, disassemble, or otherwise attempt to discover the source code, object code, or underlying structure, ideas, or algorithms of the Program; modify, translate, or create derivative works based on the Program; use the Program for timesharing or for any purpose other than Recipient’s own use for the benefit of its End Users; use the Program other than in accordance with this Agreement and in compliance with all applicable laws and regulations; and/or grant any sublicenses to the Program. Recipient is responsible for all acts and omissions of End Users. Any act or omission by an End User that would constitute a breach of this Agreement if taken by Recipient will be deemed a breach of this Agreement by Recipient.

Equipment. Recipient is solely responsible for providing all necessary hardware and networking equipment required to allow End Users to interface and exchange data with the Program.

Third-Party Services. Recipient acknowledges that certain aspects of Programs may interface with or be enabled by third-party applications or services purchased by Recipient or MOD from third parties, such as third party learning management systems. MOD MAKES NO WARRANTY WITH RESPECT TO ANY THIRD-PARTY APPLICATIONS, AND MOD SHALL HAVE NO LIABILITY SHOULD A PROGRAM OR CLIENT CONTENT BECOME UNAVAILABLE DUE TO ERRORS OR UNAVAILABILITY OF SUCH THIRD-PARTY APPLICATIONS

OR SERVICES. Recipient hereby authorizes the provider of any such third-party applications or services to share with MOD the data generated from performance of the Programs, e.g., End User surveys, courses completed, course results, etc.

III. PROVIDER PROGRAM TERMS AND CONDITIONS.

Additional terms applicable to the following MIO Programs:

(1) Supportive Pregnancy Care (all variants); (2) NICU Family Support (all variants).

Medical Care. You will be solely responsible for the selection and oversight of physicians, nurses, or other medical professionals conducting services in connection with this Program and will ensure that all physicians, nurses, trainers, or other medical professionals conducting activities under this Agreement have and are in good standing with all appropriate accreditations, licenses, and certifications.

Compliance with Laws. The parties acknowledge and agree that it is their mutual intent that the Program be offered in such a manner that it is not subject to regulation by HIPAA and shall fully cooperate with each and make such modifications to the Program structure as may be required to effect such intent.

IV. PERSONAL EDUCATION TERMS. Additional terms applicable to the following MIO Programs: (1) Becoming a Mom® (E-Learning).

Eligible Participants. Recipient understands that only individuals residing within the United States are eligible to participate in the Program and will offer the Program to US residents only. Recipient will offer the Program directly to eligible participants and not as part of an employer-sponsored group health plan. Participation in the Program shall be offered by Recipient on a strictly voluntary basis.

Term. After the initial term identified on the Recipient Agreement, the Program services shall automatically renew for successive one-year terms unless Recipient or MOD provides written notice of non-renewal at least 30 days prior to expiration of the then-current term.

Compliance with Laws. Recipient specifically represents and warrants that it shall not use any User Data that it receives in connection with the Program, including Program enrollment or activity, to take any action or make any employment related decisions that would violate applicable Laws. Recipient is solely responsible for assessing and complying with Laws that may apply to its activities in connection with this Agreement, including (if applicable) the establishment of eligibility criteria and the offering of incentives or rewards to Program participants. The parties acknowledge and agree that it is their mutual intent that the Program be offered in such a manner that it is not subject to regulation by HIPAA or ERISA and shall fully cooperate with each and make such modifications to the Program structure as may be required to effect such intent.

V. "LIVE" SERVICES TERMS. Additional terms applicable to the following live services and trainings: (1) Health Equity Education: Live Group Training; (2) Professional Education: Live Group Training; (3) Becoming a Mom® Facilitator Trainings.

Request for Cancellation / Rescheduling. Except as expressly provided, all Program Fees are non-refundable. Except as otherwise permitted in these terms, if Recipient cancels an event for any reason, MOD will consider but is not obliged to reschedule the training. Any rescheduled training must take place within forty-five (45) days following the original event date and will be either in-person or virtual, in MOD's discretion.

Insufficient registrants. In the event that, two weeks before a scheduled event, fewer than twenty (20) individuals are

registered for an in-person training, the parties agree to discuss whether to reschedule. For avoidance of doubt, MOD will consider but is not obliged to reschedule any training. Any rescheduled training must take place within forty-five (45) days following the original event date and will be either in-person or virtual, in MOD's discretion.

Force Majeure; Rescheduling. A party impacted by a Force Majeure condition (as defined above) may reschedule the training by promptly providing written notice to the other party after learning of the Force Majeure condition. In such an event, the parties agree to collaborate to promptly reschedule the training for no later than sixty (60) days following the original event date. The rescheduled training may be either in-person or virtual, in MOD's discretion. If the parties are unable to reschedule, whether due to scheduling issues or a continuing Force Majeure condition, MOD may either (in MOD's discretion) continue to work with Recipient to reschedule the training or provide Recipient with a refund, less any non-refundable costs incurred by MOD. For avoidance of doubt, Recipient is not entitled to a refund of fees that were pre-paid by a third-party funder. MOD is not responsible for travel arrangements, travel fees, or any expenses incurred by Recipient or registrants due to cancellation.

Notice to Attendees. If a training is canceled or rescheduled, MOD will contact registered attendees who have registered through MOD's registration system, and Recipient will notify any other participants.