

## Terms of Service

### 1. Introduction

We are The Medical Community (Pty) Ltd (Registration number: 2016/153910/07) also known as The Medical Community, the service provider, and you are our customer under these terms. We own **Memorability.co**. We have developed or obtained the rights to provide courses and materials to you through our website **Memorability.co**. These are the terms of our relationship with you. They cover any transactions where we provide services to you. Please review these terms regularly.

### 2. Agreement

**2.1. Composition.** The agreement consist of these terms of service and any policies or any other specific terms applicable to the services including our Website Terms of Use, Privacy Policy, Security Policy and Refund Policy.

**2.2. Definitions.** In the agreement:

**business day** means any day other than a Saturday, Sunday, or holiday (including a public or bank holiday) in the jurisdiction where we are organised;

**business hours** means our normal business hours on business days;

**day** means a day counted from midnight to midnight, including all days of the month, Saturdays, Sundays, and public holidays;

**sign** means the handwritten signature or an electronic signature that the parties agree to use, of each of the parties' duly authorised representatives; and

**writing** means the reproduction of information or data in physical form or any mode of reproducing information or data in electronic form that the parties agree to use, but excludes information or data in the form of email.

**2.3. Interpretation.** The following rules apply to the interpretation of the agreement:

- **reference headings** – clause and sub-clause headings are for reference only and do not affect interpretation;
- **non-exhaustive lists** – whenever a clause lists specific examples or items following a listing word, such as 'including', 'includes', 'excluding', or 'excludes', they will not limit its scope;
- **undefined words or phrases** – all words or phrases that the agreement not define have their ordinary English meaning;
- **enactment references** – references to any enactment include it as re-enacted, amended, or extended;

- **person references –**

references to a person includes a natural and juristic person;

- **party references** – references to a party includes their successors or permitted assigns;
- **number of days** – when any number of days is prescribed, the first day will be excluded and the last day included;
- **no interpretation against the draftsman** – the rule of construction that an agreement must be interpreted against the party responsible for its drafting or preparation does not apply; and
- **time calculations** – the parties will use GMT +2 to calculate any times.

**2.4. Conflict.** If there is a conflict of meaning between these terms and any word or phrase in an order or specific terms, the meaning in the order or specific terms will prevail in respect of the relevant services.

### **3. Duration**

**3.1. Commencement.** These terms start whenever you accept them by:

- using our platform in any way – such as by accessing it via our website; or
- exercising any rights granted to you under the agreement;

and continue until terminated.

### **4. Service requests**

**Placing service requests.** You place service requests with us whenever you start using the services through the website on the following basis:

- you promise that you have the legal capacity to enter into the transaction;
- we only conclude an agreement when we provide our services to you;
- we may cancel any request, but we will refund any money you have paid if we do;
- we conclude an agreement where you are domiciled; and
- each request is a separate agreement, but you breach all of them if you breach one.

### **5. Services**

**5.1. Licence.** We grant you a limited licence to use the services for the duration of the agreement.

**5.2. Breach.** We may cancel your licence if you breach the agreement.

### **6. Online products**

**6.1.** Through our program, Memorability we aim to improve your brain health by providing the following products to you:

- Paid courses for health professionals (HPC) which focus on memory disorders and brain health;
  - Free general education courses for the non-healthcare professionals (i.e. the general public) that focus on increasing awareness on brain health and protecting memory;
  - Book on practical activities that can enhance your brain health, which you may purchase from third party websites; and
  - Paid programs designed and researched by a neurologist for non-healthcare professionals, which focus on brain health.
- 6.2. Exclusions for non-healthcare professionals.** We do not provide medical consultation or advice for personal medical conditions. The information is not intended to replace or substitute professional medical advice and is for general informational and educational purposes. If you require any medical advice or treatment, please consult a relevant medical practitioner or other qualified healthcare professional to suitably diagnose any ailments or diseases and prescribe the relevant treatment. **We are not liable for any illness, misinterpretation etc. as a result of the on the information we provide on our website.**
- 6.3. Education purposes only.** The information we provide on our website is not intended to replace or substitute clinical skills for healthcare professionals. The information provided is for educational purposes only education only.
- 6.4. Basis.** We provide the online services to you on the following basis:
- we give you a right to use them, but you may only use them according to these terms, anybody else may also use them (the right is non-exclusive), and you may not transfer this right to anyone else;
  - you give us permission to monitor how you use them for security and stability purposes;
  - they may incorporate third party software, which may have their own legal terms that you agree to by using them; and
  - you agree that our records are undisputed evidence of the services provided to you.
- 6.5. Registered users.** Registered users will:
- accurately provide us with any information that we ask for on registration or account creation;
  - create or have the necessary credentials (such as a username and password) assigned to you on registration or account creation;
  - look after your credentials and not give them to anyone else;
  - not interfere with or introduce any malicious software into the online services or otherwise misuse them;

- be responsible for any activity

that happens under your account, even if someone else was actually acting under your credentials;

- have the necessary infrastructure, equipment, and software to access the online services; and
- abide by the agreement and any policies that we communicate to them in writing.

**6.6. Registration.** Registration allows users to:

- log into the website;
- manage their registration and content;
- access the educational material we provide; and
- use our programs and courses.

**6.7. Availability.** We will do our best to make the online services available at all times, however we cannot guarantee that they will always be available. We may make them unavailable for scheduled and emergency maintenance.

**7. Fees and payment**

**7.1. Payment.** You will pay us the fees on the due date in the manner agreed between the parties in writing. You may not withhold payment of any amount due to us for any reason.

**7.2. Price.** Prices are dependent on the specific product you purchase from us, and are subject to change.

**7.3. Fees.** You will be charged a fee upfront for the specific product you choose. You must pay the fees to us before you can use our products.

**7.4. Manner of payment.** Fees must be paid via PayPal. Direct EFT will be available if requested.

**7.5. Late payments.** Additional charges agreed between the parties in writing apply to any payment we receive after the due date and you must pay them to us on demand. We may stop providing any services until you have paid all amounts due.

**8. Your data**

**8.1. Definition.** Your data is any data belonging to you or your customer that:

- you or your customer (or any third party on your behalf) provide to us; or
- we generate, process, or supply to you or your customer in providing the services;

but excludes any derived data that we create for our own purposes or which is proprietary or confidential to us or our third party contractors.

**8.2. Ownership.** You own all your data, but give us a licence to use it to provide the services



when you submit it through them.

- 8.3. **Responsibility.** We take the protection of your data very seriously and will always do everything in our power to protect it. However, we are not responsible for any of your data stored on the online services, you provide it to us at your own risk, and you indemnify us against any liability for it to the extent allowed by applicable law, including liability for information security, unauthorised access, and third party claims.
- 8.4. **Location.** Your data will remain wherever we place it initially, unless we have to transfer it to another country to comply with our obligations to you. You consent to us transferring it to our group of companies, associated companies, service providers, or agents who may be located in other countries for the purpose of providing the services.

## 9. Intellectual property

- 9.1. **Ownership.** We or our third party licensors own all proprietary rights in our services and we or they may prosecute you for any violations of those rights.
- 9.2. **Our technology.** Our technology is anything that we have or acquire rights in and may use to perform our obligations under the agreement.
- 9.3. **Content on our website.** The content, logos, images, trademarks on our website are owned by The Medical Community unless stated otherwise. They are clearly marked. Some of the content on our website (such as the content in articles) is protected by a Creative Commons licence. We have been granted the Creative Commons licence to use this content, subject to certain restrictions. Articles that are under a Creative Commons licence are appropriately crediting the copyright holder, and are clearly referenced as such. For more information, please visit: <https://creativecommons.org/licenses/by/4.0/>.
- 9.4. **Retention of rights.** We own all intellectual property rights in our technology and you may not use those rights without our permission. You do not acquire any rights in our technology if we use it in our performance under an order.
- 9.5. **Trademarks.** Our trademarks are our property and you may not use them without our permission. All other trademarks are their respective owners' property.
- 9.6. **Restrictions.** You may not change, hire out, reverse engineer, or copy the services without our permission.

## 10. Our warranties

We warrant that we:

- have the legal right and

- authority to perform our obligations under the agreement; and
- will not knowingly introduce any malicious software into your systems.

## 11. Disclaimer of warranties

- 11.1. **Disclaimer.** You use the services at your own risk and we disclaim all other warranties to the extent allowed by applicable law. We are not liable for any defect that you cause.
- 11.2. **Exclusion of liability.** Despite our warranties, we are not liable for any defects that your negligence, failure to follow our instructions, or misuse causes.

## 12. Your warranties

- 12.1. **Agreement warranties.** You warrant that:
- no one has induced you to enter into the agreement by any prior representations, warranties, or guarantees; and
  - you are not breaching of any other agreement by entering into the agreement.
- 12.2. **Indemnity.** You indemnify us against any claim for damages by any third party resulting from a breach of these warranties, including all legal costs. Legal costs means the costs that a lawyer may recover from their client for their disbursements and professional services if permissible under applicable law.

## 13. Limitation of liability

- 13.1. **Direct damages limited.** We are only liable to you for any direct damages that the services may cause up to the total amount of fees that you have already paid us for them.
- 13.2. **Indirect damages excluded.** We are not liable for any other damages or losses that the services may cause you.
- 13.3. **Your default.** We are not liable for any damage or loss that your breach, misrepresentation, or mistake causes.

## 14. Breach and termination

- 14.1. **Breach.** If either party
- does not fix a breach within seven days of receiving written notice from the other party;
  - breaches the agreement materially twice or more in six months;
  - is bankrupt or has some legal disability;
  - takes steps to or is closed down (such as becoming insolvent or entering sequestration);

- makes any settlement or

arrangement with their creditors; or

- fails to pay a court order against themselves for a significant amount within 21 days;

then the other party may:

- make the party comply with the agreement; or
- immediately cancel the agreement in writing and claim damages from the other party, including fees already due.

**14.2. Suspension.** We may immediately suspend your right to use the services if:

- you try to gain unauthorised access to them;
- we decide that your use poses a security threat to us or another user;
- there is evidence of fraud on your account; or
- we believe you are using them for an illegal purpose or in way that infringes a third party's rights.

**14.3. Duties on termination.** We will stop providing the services, you will no longer be able to access them, and we may erase your data on termination, cancellation, or expiry of the agreement.

## 15. Effect of termination

**15.1. Acceleration.** All amounts due to us for the services become due and payable on termination, cancellation, or expiry the agreement.

**15.2. No expectation.** The agreement does not create any expectation of continued service, agreement renewal, or any further agreement between the parties.

**15.3. Survival.** The termination, cancellation, or expiry of this agreement will not affect the enforceability of the terms that are intended to operate after expiry or termination.

## 16. General

**16.1. Resolving disputes.** Either party may inform the other in writing if there is a dispute. The parties must first try to negotiate to end the dispute, then enter into mediation if negotiation fails, and finally go to arbitration if mediation fails. If they go to arbitration, they will agree in writing on a recognized and appropriate forum for arbitration that is accessible to both parties.

**16.2. Notices and domicile.** The parties will send all notices to each others' email addresses and choose their respective street addresses as their service addresses for all legal documents. Our email and street addresses are available on our website, while you provide your email and street addresses to us when concluding the agreement. The parties may change either address on 14 calendar days written notice to the other.

**16.3. Beyond human**

**control.** Neither party is responsible for breach of the agreement caused by circumstances beyond human control, but the other party may cancel the agreement on written notice to the other if the circumstances persist for more than 60 calendar days.

**16.4. Assignment.** You may not assign the agreement to anyone. We may assign it to any successor or purchaser of our business or some of our assets.

**16.5. Relationship.** The agreement does not create an employment relationship between the parties.

**16.6. Entire agreement.** The agreement is the entire agreement between the parties on the subject.

**16.7. Changes.** We may change this agreement at any time by placing a notice on our website. Those changes will only apply to future services requests. If you do not agree with the changes, you must stop using the services. If you continue to use the services following notification of a change, the changed terms will apply to you and you will be deemed to have accepted them.

**16.8. Waiver.** Any favour we may allow you will not affect any of our rights against you.

**16.9. Severability.** Any term that is invalid, unenforceable, or illegal may be removed from the agreement without affecting the rest of it.

**16.10. Governing law.** The law of whichever country we have our offices in when we enter into the agreement governs the agreement.

**16.11. Jurisdiction.** You consent to the jurisdiction of the lowest possible court for civil disputes in the country in which we were legally registered when we accepted the agreement in respect of any action or proceedings that we may bring against you in connection with the agreement, even if the action or proceedings would otherwise be beyond its jurisdiction without prejudice to our right to institute any action in any other court having jurisdiction.