

# Terms and Conditions of Use

## Healthy Foundations, Inc.

Please read these Terms of Service (“Terms”) from Healthy Foundations (the Provider) carefully.

If you do not agree with these TOS, you may not use our services. Our services are intended for and suitable only for adults over the age of 18.

**1. Description of Services.** You must agree to these TOS before you are permitted to use any digital or downloadable resources, memberships, online courses, group coaching, classes, programs, workshops, training, enter any online private forums such as Facebook groups operated by Healthy Foundations, use our Jotform Playroom app, our TalentLMS Learning Management System, and others (collectively “the Services”).

**2. Payment.** You agree to the fees and payment schedule selected at checkout.

- A. **On-demand Courses for Parents and Professionals:** Upon registering for any course, you agree to pay the stated amount in full before receiving access to the materials.
- B. **The Playroom:**
  - a. Month-to-month commitment: Upon registering for The Playroom - monthly recurring subscription, your first payment of USD \$27 is due, followed by recurring monthly payments of \$47. The recurring monthly payment of \$47 will be charged to your card on the same calendar day each month unless terminated by either you or us. You can cancel at any time before the next month’s payment is charged, as outlined in the Termination or Cancellation paragraph below.
  - b. Six-month commitment: Upon registering for the Playroom – 6-month recurring subscription, your first payment of \$250 is due. The recurring 6-month subscription will be charged to your card on the same calendar day 6 months later unless terminated by either you or us. You can cancel at any time before it renews and is charged, as outlined in the Termination or Cancellation paragraph below.
  - c. Parents currently enrolled in the Healthy Foundations Family Program are eligible for free membership in The Playroom when initiated by the office and for 30 days following the completion of the 12-week program.
  - d. Summer Sanity Subscription (Basic Offer): In addition to the free items that will be emailed to you within a week of signing up, the month-to-month subscription is the same as above (a.).
  - e. Summer Sanity Subscription (Premium Offer): Upon registering for The Playroom with the Premium option, your card will be charged \$200 followed by an automatic charge of \$47/mo for continued access to The Playroom after 30 days. You can cancel at any time before it renews and is charged at \$47/mo, as outlined in the Termination or Cancellation paragraph below. Access to the one-hour free consult with Dr. Alden expires on August 15, 2024 at midnight.
- C. **Healthy Foundations Family Program--12-week online coaching program:** Upon registering for the program, you agree to pay the stated amount in full prior to receiving access to any materials. (This does not apply to Idaho Medicaid clients participating in the in-home program.)
- D. **Refunds:** Your satisfaction with our Services is important to us. However, due to the nature of our Services and the amount of time and effect that goes into providing these Services, we do not give refunds of any kind. By purchasing our services you acknowledge that all sales are final and no refund will be provided.

In addition to any other right or remedy provided by law, if the Recipient fails to pay for the Services when due, the Provider has the option to treat such failure to pay as a material breach of this Contract and may cancel this Contract and/or seek legal remedies.

**3. User Name and Password.** To access certain services, you may be asked to provide a username and password. It is your responsibility to inform [office@healthyfoundations.co](mailto:office@healthyfoundations.co) if you do not receive an email containing accessibility information to the Service. You agree to keep your username and password confidential and to not share it with anyone outside those living within your household. During the registration process for any service or product, you agree to provide true, accurate, current, and complete information about yourself. If the Provider has reasonable grounds to suspect that you have provided false information, shared your username and password with anyone outside those living within your household, or forwarded any non-public material

from the Services to any other person, the Provider has the right to suspend or terminate your account and refuse any and all current or future use of the Services, in whole or part, without refund.

**4. Work Product Ownership.** Any copyrightable works, ideas, discoveries, inventions, patents, products, or other information (collectively, "Work Product") developed in whole or in part by the Provider in connection with the Services will be the exclusive property of the Provider.

- a. Trademarks: The trademarks and logos displayed on the Services or Work Product are trademarks belonging to the Provider, unless otherwise indicated. Any use including framing, metatags or other text utilizing these trademarks, or other trademarks displayed, is strictly prohibited without our written permission.
- b. Unauthorized Use: Your use of any materials found in the Services or Work Product other than that expressly authorized in this agreement or by a separate written assignment, is not permitted ("Unauthorized Use"). You agree to pay liquidated damages of four (4) times the total fees paid for the Services in the event of your Unauthorized Use, or a minimum of \$4,000, whichever is greater, in addition to any legal or equitable remedies the Provider may be entitled to pursue.
- c. Marketing Materials: By posting or submitting any comments, posts, designs, photos, images, graphics, or videos, you are presenting to us that you are the owner of such materials. You are also granting us, and anyone authorized by us, unlimited, royalty-free, perpetual, irrevocable, non-exclusive, unrestricted, worldwide license to use, copy, modify, transmit, sell, exploit, create derivative works from, distribute and/or publicly perform or display your contributions in part or in whole, in any medium, now or in the future, for any purpose, and granting us the right to make it part of the Provider's current or future Service or Work Product granting us proprietary rights or intellectual property rights under any relevant jurisdiction without any further permission from you or compensation to you.
- d. Recordings: You also consent to photographs, videos, and/or audio recordings, including group coaching calls, webinars, or other communications that may be made by the Provider during any Service that may contain you, your voice and/or your likeness. In the Provider's sole discretion, we reserve the right to use these items without compensation to you at any time, now or at any time in the future. You give permission for the Provider to use anything you submit or post in the Services or any third-party forum or website operated by the Provider, or anything captured by the Provider during your participation in the Services, including images in which your face is visible and recognizable.

All rights not expressly granted in these terms or any express written license, are reserved by us.

**5. Conduct.** The Program is a "pitch-free zone." You agree you will not pitch, promote, market, or sell any other products, groups, programs, or events to Program participants on any Provider website or third-party forums operated by the Provider, whether or not officially sanctioned, owned, or operated by the Provider. You agree not to market, promote, or sell products or services such as essential oils, exercise DVDs, nutritional supplements, coaching services, or other products or services to Program participants unless you are authorized or requested to do so by the Provider.

Please choose carefully the materials that you upload to, submit to, or embed on any website operated by the Provider and any third-party forums operated by the Provider. Any material you post on the Provider's website or in any third-party forums operated by the Provider may become public.

You are responsible for your material and for any liability that may result from the material you post. You participate, comment, and post material at your own risk. Any communication by you on the Provider's website and any third-party forums operated by the Provider, whether by leaving a comment, participating in a chat, public or private forum, or other interactive service, must be respectful.

You may not communicate or submit any content or material that is abusive, vulgar, threatening, harassing, knowingly false, defamatory or obscene, pornographic, sexually explicit or violent, or otherwise in violation of any law or the rights of others. You agree to post comments or other material only one time.

You are strictly forbidden from the following:

- Harassing, fighting with, or being disrespectful to other participants
- Impersonating any other person

- Causing damage to any Provider website or third-party forums operated by the Provider
- Using any Provider website or third-party forums operated by the Provider for any unlawful, illegal, fraudulent or harmful purpose or activity
- Using any Provider website or third-party forums operated by the Provider to copy, store, host, transmit, send, use, publish or distribute any spyware, virus, worm, Trojan horse, keystroke logger or other malicious software
- Using any Provider website or third-party forums operated by the Provider to transmit, send or deliver unsolicited communications or for other marketing or advertising purposes
- Systematically or automatically collecting data from any Provider website or third-party forums operated by the Provider
- Using any Provider website or private membership forum or third-party forums operated by Provider, to take pictures and/or screenshots of comments, posts, pictures, materials or any other content posted and/or shared by Provider and/ or Participants without receiving their advance permission
- Sharing any private and proprietary information, screen shots, comments, posts, pictures, materials or any other content posted and/or shared from other participants, with the public or with anyone who is not a participant on or in any Provider website, private membership or third-party forums operated by Provider.

If, in the Provider's sole discretion, your conduct violates these TOS in any way, you agree that the Provider may immediately and permanently terminate your participation in the Program and your access to the Provider without refund.

The Provider, in its discretion, may delete or modify, in whole or part, any post, comment or submission to the Provider's and any third-party forums operated by the Provider. The Provider does not, however, have any obligation to monitor posts, comments, or material submitted by third parties. The Provider neither endorses nor makes any representations as to the truthfulness or validity of any third-party posts, comments, or material on the Provider's website or any third-party forums operated by the Provider. The Provider shall not be responsible or liable for any loss or damage caused by third-party posts, comments, or materials on the Provider website and any third-party forums operated by the Provider.

## **6. Community Guidelines.**

The Provider has created a community that is a safe and judgment-free space for connection, conversation, learning, and growth. Within the Provider's community is the baseline expectation that all participants will treat one another with respect while bringing encouragement and consideration to all participants. The Provider's community guidelines are as follows:

- A. The Provider's Program promotes diversity amongst its members. Therefore, the Provider encourages all members to connect with one another and to learn about one another's background, interests, hobbies and points of view. The Provider does not tolerate nor support any member's discriminatory speech, hate speech, comments, or actions against another member based on their sex, gender, age, ethnicity, race, socio-economic status, disability, or other labels.
- B. The Provider does its best to create a safe and welcoming space for all members, however, Provider cannot guarantee that all members will follow these guidelines. Provider, in its sole discretion, may remove any member's comments, posts, content or materials, however, Provider does not have a duty to review all comments, posts, content and material shared within the Program. Therefore, Provider shall not be held liable for any member's comments, actions, posts, content or materials that result in another member's trauma or discomfort.
- C. The Provider has created a safe space for all members to feel seen, respected and heard. Provider encourages members to engage in respectful dialogue with one another. The Provider does not support nor tolerate any disrespectful actions or comments, which include, but are not limited to hate speech, discriminatory comments, physical, or mental or emotional abuse. Therefore, each member must demonstrate respect towards one another.
- D. Support each member with words of encouragement, resources or suggestions, while respecting each member's boundaries. We may also post separate rules regarding your behavior in any online community or forum, whether hosted on the Provider's website or a third-party website, which may be updated from time to time. You agree that you are bound by those rules and they are expressly incorporated into these TOS.

In the Provider's sole discretion, if your conduct violates these TOS in any way, you agree that the Provider may immediately and permanently terminate your participation in the Program and your access to the Content without refund.

**7. Termination or Cancellation.** This Contract may be terminated by either party upon 1 days' prior written notice to the other party. The Provider reserves the right in its sole discretion to refuse or terminate your access to the Services and Work Product, in full or in part, at any time without notice. The Provider may terminate your participation in the Services at any time, without refund, if you breach any part of these TOS. In the event of cancellation or termination by the Provider, you are no longer authorized to access the part of the Services or Work Product affected by such cancellation or termination.

If you would like to cancel your recurring subscriptions to the Services, you must give the Provider at least 24 hours' advance written notice by filling out the Cancellation Form [<https://bit.ly/3VEO9Le>] before your monthly recurring charge or annual renewal date. Cancellations will be effective on the end date of the current billing term. You will continue to have access to the materials and Services until the end of the then-current billing term. You will not be able to log in once the billing term has expired. You will not be issued a prorated refund for any remaining days or months in the event you cancel in the middle of a payment cycle.

In the event you decide to cancel, any remaining, default, or late payments will be due immediately.

**8. Confidentiality.** The Provider and its employees, agents, or representatives will not at any time or in any manner, either directly or indirectly, use for the personal benefit of the Provider or divulge, disclose, or communicate in any manner any information that is proprietary to the Recipient. The Provider and its employees, agents, and representatives will protect such information and treat it as strictly confidential. This provision will continue to be effective after the termination of this Contract. Any oral or written waiver by the Recipient of these confidentiality obligations which allows the Provider to disclose the Recipient's confidential information to a third party will be limited to a single occurrence tied to the specific information disclosed to the specific third party, and the confidentiality clause will continue to be in effect for all other occurrences.

#### **9. Personal Responsibility, Assumption of Risk, Disclaimers**

- (a) Your participation in the Services does not establish a business advisor-client relationship of any kind between you, the Provider, or anyone providing services on behalf of the Provider.
- (b) Your participation in the Services does not establish any doctor-patient, attorney-client, counseling, or accountant-client relationship of any kind between you, the Provider, or anyone providing services on behalf of the Provider. (Exception noted for services where a signed Informed Consent form is required--such as services covered through Idaho Medicaid or private counseling agreements.)
- (c) You agree that you will not use coaching as a way of diagnosing or treating mental disorders as defined by the American Psychiatric Association. If you are in therapy or under the care of a mental health professional, you will notify and consult with the mental health care provider regarding your decision whether to work with a coach.
- (d) Earnings and Results Disclaimer: You agree that Provider has not made and does not make any representations about the earnings or results you may receive as a result of your participation in the Program. The Provider cannot and does not guarantee that you will achieve any particular result or earnings from your use of the Program, and you understand that results and earnings differ for each individual.
- (e) Any links to third-party products, services, or sites are subject to separate terms and conditions. The Provider is not responsible for or liable for any content on or actions taken by such third-party company or website. Although the Provider may recommend third-party sites, products or services, it is your responsibility to fully research such third parties before entering into any transaction or relationship with them.
- (f) The Provider tries to ensure that the availability and delivery of the Program and Content is uninterrupted and error-free. However, the Provider cannot guarantee that your access will not be suspended or restricted from time to time, including to allow for repairs, maintenance or updates, although, of course, we will try to limit the frequency and duration of suspension or restriction.

**10. Security.** You acknowledge that there is an inherent risk in all forms of electronic communication, and communications between you and the Provider may be unlawfully intercepted by third parties not under our control. The Provider does not guarantee the security of any information transmitted via the Internet, telephone, video conference, or other electronic media. Any efforts you undertake to communicate with Provider are done at your own risk.

**11. Default.** The occurrence of any of the following shall constitute a material default under this Contract:

- (a) The failure to make a required payment when due.
- (b) The insolvency or bankruptcy of either party.
- (c) The subjection of any of either party's property to any levy, seizure, general assignment for the benefit of creditors, application, or sale for or by any creditor or government agency.
- (d) The failure to make available or deliver the Services in the time and manner provided for in this Contract.

**12. Remedies.** In addition to any and all other rights a party may have available according to law, if a party defaults by failing to substantially perform any provision, term, or condition of this Contract (including without limitation the failure to make a monetary payment when due), the other party may terminate the Contract by providing written notice to the defaulting party. This notice shall describe with sufficient detail the nature of the default and will result in the automatic termination of this Contract.

**13. Indemnification.** You agree to defend, indemnify, release, and hold harmless the Provider and any directors, officers, agents, contractors, partners, assigns, successors-in-interest and its and their employees from and against any and all claims, damages, obligations, losses, liabilities, costs, debt and expenses (including but not limited to attorney's fees) arising from or in connection with: (i) your use of the Services or Work Product in violation of these TOS, (ii) any breach by you of these TOS or any representation and warranty made by you herein, (iii) any comment, post, or material you submit to the Provider's website or any third-party forum or website operated by the Provider, (iv) your use of materials or features available on the Services or Work Product (except to the extent a claim is based upon infringement of a third-party right by materials created by the Provider) or (v) a violation by you of applicable law or any agreement or terms with a third party to which you are subject.

**14. Force Majeure.** If performance of this Contract or any obligation under this Contract is prevented, restricted, or interfered with by causes beyond either party's reasonable control ("Force Majeure"), and if the party who is unable to carry out its obligations and gives the other party prompt written notice of such event, then the obligations of the party invoking this provision shall be suspended to the extent necessary by such event. The term Force Majeure shall include, without limitation, acts of God, plague, epidemic, pandemic, outbreaks of infectious disease, or any other public health crisis, including quarantine or other employee restrictions, fire, explosion, vandalism, storm, or other similar occurrence, orders or acts of military or civil authority, or by national emergencies, insurrections, riots, or wars, or strikes, lock-outs, work stoppages or other labor disputes, or supplier failures. The excused party shall use reasonable efforts under the circumstances to avoid or remove such causes of non-performance and shall proceed to perform with reasonable dispatch whenever such causes are removed or ceased. An act or omission shall be deemed within the reasonable control of a party if committed, omitted, or caused by such party or its employees, officers, agents, or affiliates.

**15. Dispute Resolution.** The parties will attempt to resolve any dispute arising out of or relating to this Contract through friendly negotiations amongst the parties. If the matter is not resolved by negotiation within 30 days, the parties will resolve the dispute using the below Alternative Dispute Resolution (ADR) procedure.

Any controversies or disputes arising out of or relating to this Contract will be resolved by binding arbitration under the rules of the American Arbitration Association. The arbitrator's award will be final, and judgment may be entered upon it by any court having proper jurisdiction.

**16. Entire Agreement.** This Contract contains the entire agreement of the parties, and there are no other promises or conditions in any other agreement, whether oral or written, concerning the subject matter of this Contract. This Contract supersedes any prior written or oral agreements between the parties.

**17. Severability.** If any provision of this Contract will be held to be invalid or unenforceable for any reason, the remaining provisions will continue to be valid and enforceable. If a court finds that any provision of this Contract is invalid or unenforceable but that by limiting such provision, it would become valid and enforceable, then such provision will be deemed to be written, construed, and enforced as so limited.

**18. Governing Law.** This Contract shall be construed in accordance with the laws of Idaho.

**19. Waiver of Contractual Right.** The failure of either party to enforce any provision of this Contract shall not be construed as a waiver or limitation of that party's right to subsequently enforce and compel strict compliance with every provision of this Contract.

**20. Attorney's Fees and Collection Costs.** If there is a dispute relating to any provisions in this Contract, the prevailing party is entitled to, and the non-prevailing party shall pay, the costs and expenses incurred by the prevailing party in the dispute, including but not limited to all out-of-pocket costs of collection, court costs, and reasonable attorney fees and expenses.

**21. Construction and Interpretation.** The rule requiring construction or interpretation against the drafter is waived. The document shall be deemed as if it were drafted by both parties in a mutual effort.

Updated on 5/10/24