

ONLINE COACHING SERVICES AGREEMENT

1. PARTIES

- (A) Evan Hill (ABN: 94392711386), trading as EVANHILLTRAINS, of 62 Constitution Ave Parkes, Australian Capital Territory (the **Coach**).
- (B) The individual identified in the onboarding documentation who accepts these terms and engages the Coach for the provision of Services (the **Client**).

The Coach and the Client are each referred to as a Party and together as the **Parties**.

2. DEFINITIONS AND INTERPRETATION

2.1 Definitions

In this Agreement, unless the context otherwise requires:

ACL means the Australian Consumer Law set out in Schedule 2 of the Competition and Consumer Act 2010 (Cth).

Agreement means this Online Coaching Services Agreement, including all Schedules, annexures, and any amendments agreed in writing between the Parties.

APSS means the Adult Pre-Exercise Screening System, or any substantially equivalent pre-exercise screening tool approved by Exercise & Sports Science Australia or a comparable professional body.

Business Day means a day that is not a Saturday, Sunday, or public holiday in the Australian Capital Territory.

Commencement Date means the date on which the Client completes all Onboarding Materials and the Coach confirms commencement of the Services in writing.

Confidential Information means all information disclosed by one Party to the other in connection with this Agreement that is by its nature confidential, is designated as confidential, or the recipient knows or ought reasonably to know is confidential, and includes the Client's Personal Information and Health Information.

Digital Products means the ebooks, training program guides, templates, and other digital resources made available for purchase by the Coach, as further described in Schedule 3.

ESSA means Exercise & Sports Science Australia.

Fees means the fees payable by the Client for the Services or Digital Products, as agreed between the Parties and set out in the relevant order confirmation or onboarding documentation.

Force Majeure Event means any event or circumstance beyond the reasonable control of a Party, including natural disaster, pandemic, epidemic, act of God, war, terrorism, civil unrest, government action or direction, power failure, internet or telecommunications failure, or cyberattack.

GST has the meaning given in the A New Tax System (Goods and Services Tax) Act 1999 (Cth).

Health Information has the meaning given in section 6 of the Privacy Act 1988 (Cth) and includes information about the Client's physical health, injuries, medical conditions, fitness assessments, body measurements, and exercise screening responses.

Intellectual Property means all intellectual property rights, including copyright, trade marks, designs, patents, trade secrets, know-how, and all other rights of a similar nature, whether registered or unregistered, and includes all training programs, methodologies, ebooks, written content, video content, templates, spreadsheets, and other materials created by or on behalf of the Coach.

Moral Rights has the meaning given in Part IX of the Copyright Act 1968 (Cth).

Money-back Guarantee Period means the period of 30 days commencing on the Commencement Date.

Onboarding Materials means the pre-exercise screening questionnaire (APSS), Informed Consent and Risk Acknowledgement (Schedule 1), personal details form, and any other intake documentation required by the Coach to be completed by the Client before the Commencement Date.

Personal Information has the meaning given in the Privacy Act 1988 (Cth).

Privacy Policy means the Coach's privacy policy as published on the Website and updated from time to time.

Program means the personalised training program designed by the Coach for the Client, as varied from time to time during the Term.

Services means the online personal training and coaching services described in clause 4, delivered remotely by the Coach to the Client.

Subscription Period means each calendar month during which the Client is subscribed to receive the Services, commencing on the Commencement Date or the most recent renewal date (as applicable).

Term means the period from the Commencement Date until this Agreement is terminated in accordance with clause 13.

Website means the Coach's website at [URL to be confirmed].

Website Terms means the Website Terms of Use published on the Website.

2.2 Interpretation

In this Agreement, unless the context otherwise requires:

- (a) a reference to a clause or Schedule is a reference to a clause of, or schedule to, this Agreement;
- (b) a reference to a Party includes that Party's successors, permitted assigns, executors, and administrators;
- (c) a reference to legislation includes any amendment, re-enactment, or replacement of that legislation and any subordinate legislation made under it;
- (d) words importing the singular include the plural and vice versa;
- (e) headings are for convenience only and do not affect interpretation;
- (f) where a word or expression is defined, other grammatical forms of that word or expression have corresponding meanings; and
- (g) including and similar expressions are not words of limitation.

3. ENGAGEMENT AND ONBOARDING

- (a) The Coach agrees to provide the Services to the Client, and the Client agrees to engage the Coach to provide the Services, on the terms and conditions set out in this Agreement.
- (b) Before the Commencement Date, the Client must:
 - (i) complete an initial consultation with the Coach (by video call or phone) to discuss the Client's fitness goals, training experience, health history, and service requirements;
 - (ii) complete all Onboarding Materials, including the APSS questionnaire and the Informed Consent and Risk Acknowledgement set out in Schedule 1;
 - (iii) disclose to the Coach all information required by the Onboarding Materials truthfully, completely, and to the best of the Client's knowledge; and

- (iv) provide a valid payment method and authorise recurring payments in accordance with clause 9.
- (c) The Coach reserves the right to decline to provide the Services if, following the initial consultation or review of the Onboarding Materials:
 - (i) in the Coach's reasonable opinion, the Client's health profile presents risks that are beyond the Coach's scope of practice or qualifications;
 - (ii) the Client has not obtained medical clearance where the Coach has reasonably requested it; or
 - (iii) the Client has provided information that the Coach reasonably considers to be false or materially incomplete.
- (d) The Services will commence on the Commencement Date. The Coach will confirm the Commencement Date in writing (including by email or platform message).

4. SERVICES

- (a) The Coach agrees to provide the Client with online personal training and coaching services, which may include (as agreed between the Parties during the initial consultation):
 - (i) design and delivery of a personalised training Program tailored to the Client's goals, fitness level, experience, and any disclosed injuries or medical conditions;
 - (ii) delivery of the Program via Google Sheets, PDF, or equivalent digital format;
 - (iii) periodic check-in and review sessions conducted via Google Meet, phone, or equivalent video or audio conferencing platform, at a frequency agreed between the Parties;
 - (iv) progressive modifications to the Program based on the Client's progress, feedback, and any changes in the Client's health or fitness status;
 - (v) general wellness guidance, including basic nutritional and lifestyle recommendations, subject to the limitations and disclaimers set out in clause 5; and
 - (vi) ongoing communication and support during the Subscription Period via agreed channels (which may include email, messaging applications, or platform messaging).
- (b) The Services are provided on a remote, online-only basis. The Coach does not provide in-person training sessions under this Agreement.
- (c) The specific scope, frequency, and level of service will be agreed between the Parties during the initial consultation and confirmed in writing. The Coach may adjust the scope of Services from time to time with the Client's agreement.
- (d) The Coach will use reasonable skill and care in providing the Services, consistent with the standards expected of an accredited exercise professional registered with ESSA.
- (e) The Coach does not guarantee any specific results, outcomes, or timeframes. Results will vary between individuals depending on factors including (without limitation) the Client's consistency, effort, nutrition, sleep, genetics, and pre-existing health conditions.

5. GENERAL WELLNESS GUIDANCE – SCOPE AND DISCLAIMER

- (a) The Coach may, as part of the Services, provide general wellness guidance. This may include basic recommendations regarding hydration, post-workout nutrition, sleep, recovery, and general lifestyle habits.
- (b) The Client acknowledges and agrees that any wellness guidance provided by the Coach:
 - (i) is general in nature only and is not tailored to the Client's specific dietary, nutritional, or medical needs;

- (ii) does not constitute personalised dietary advice, nutritional advice, meal planning, or medical advice;
 - (iii) does not constitute advice from a qualified or registered dietitian, nutritionist, medical practitioner, or other regulated health professional;
 - (iv) should not be relied upon as a substitute for professional medical, dietary, or health advice; and
 - (v) is provided on the basis that the Client will exercise their own judgment and seek independent professional advice where appropriate.
- (c) The Client should consult a qualified health professional before making any changes to their diet, nutrition, supplementation, or lifestyle based on guidance provided by the Coach.
 - (d) To the maximum extent permitted by law, the Coach excludes all liability for any loss, injury, damage, or adverse health outcome arising from or in connection with the Client's reliance on general wellness guidance provided under this Agreement.

6. CLIENT OBLIGATIONS

- (a) The Client must:
 - (i) complete all Onboarding Materials fully and accurately before the Commencement Date;
 - (ii) disclose to the Coach all pre-existing medical conditions, injuries (including past injuries), physical limitations, allergies, medications, and any other health information that may affect the Client's ability to safely participate in the Program;
 - (iii) notify the Coach promptly (and in any event within 48 hours) of any change in the Client's health, medical condition, injury status, or physical capacity during the Term;
 - (iv) follow the Coach's reasonable instructions and recommendations regarding exercise technique, intensity progression, and safety;
 - (v) begin any new program or exercise at a light to moderate intensity and increase progressively as the body adapts, in accordance with the Coach's guidance;
 - (vi) ensure that the environment in which the Client performs exercises is safe, clean, adequately ventilated, and free from hazards, and that any equipment used by the Client is in good working condition and appropriate for the exercises being performed;
 - (vii) not perform any exercise or activity that the Client knows or ought reasonably to know exceeds their current physical capacity or poses an unacceptable risk to their health or safety;
 - (viii) attend scheduled check-in sessions or provide reasonable notice of cancellation or rescheduling;
 - (ix) communicate with the Coach in a respectful and professional manner; and
 - (x) pay all Fees in accordance with clause 9.
- (b) The Client is solely responsible for ensuring they are medically fit to participate in the Program. The Coach strongly recommends that all Clients obtain medical clearance from a qualified medical practitioner before commencing the Services.
- (c) The Client acknowledges that the Coach is not responsible for supervising the Client's performance of exercises in real time and cannot assess whether the Client's form, technique, or execution is safe during unsupervised sessions.

7. COACH OBLIGATIONS AND QUALIFICATIONS

- (a) The Coach represents and warrants that:

- (i) the Coach holds current accreditation with ESSA as an exercise scientist, exercise physiologist, and personal trainer;
 - (ii) the Coach will maintain current accreditation with ESSA (or a comparable professional body) for the duration of the Term;
 - (iii) the Coach holds, and will maintain for the duration of the Term, appropriate insurance coverage, including professional indemnity insurance; and
 - (iv) the Coach will provide the Services with reasonable skill, care, and diligence, consistent with the standards expected of a competent exercise professional.
- (b) The Coach is not a medical practitioner, physiotherapist, chiropractor, osteopath, dietitian, accredited practising dietitian, nutritionist, psychologist, or other registered health professional within the meaning of the Health Practitioner Regulation National Law. The Services do not constitute medical advice, diagnosis, treatment, or allied health services.
- (c) The Coach will:
- (i) design a Program that is appropriate for the Client based on the information disclosed by the Client during onboarding and throughout the Term;
 - (ii) review and adjust the Program at reasonable intervals based on the Client's progress, feedback, and any changes in the Client's health or fitness status;
 - (iii) respond to Client communications within a reasonable timeframe during Business Days; and
 - (iv) maintain the confidentiality of the Client's Personal Information and Health Information in accordance with the Privacy Policy and applicable law.

8. PROGRAM MODIFICATION AND SERVICE ADJUSTMENTS

- (a) The Coach may modify the Program from time to time during the Term:
- (i) to reflect the Client's progress, feedback, or changed circumstances;
 - (ii) to accommodate changes in the Client's health or injury status as disclosed by the Client; or
 - (iii) where the Coach reasonably considers a modification is necessary for safety or effectiveness.
- (b) Where a modification is material, the Coach will notify the Client and explain the reasons for the change.
- (c) The Coach may, on reasonable notice, vary the platforms, tools, or channels used to deliver the Services (for example, moving from Google Sheets to an alternative program delivery tool), provided the quality and scope of the Services is not materially diminished.

9. PAYMENT

- (a) The Client agrees to pay the Coach the Fees agreed during the initial consultation or as otherwise set out in the relevant order confirmation.
- (b) Coaching Services are billed on a monthly subscription basis. Payment is due at the commencement of each Subscription Period and will be processed automatically via Stripe (or such other payment platform as the Coach may notify the Client from time to time).
- (c) Digital Products are sold on a one-off purchase basis. Payment is due at the time of purchase and will be processed via Stripe or such other payment platform as is available on the Website at the time of purchase.
- (d) All Fees are stated in Australian dollars (AUD).

- (e) If a scheduled payment fails, the Coach will notify the Client and provide a period of not less than 7 days to update their payment details or rectify the failed payment. If the payment is not rectified within that period, the Coach may:
 - (i) suspend access to the Services until payment is received; or
 - (ii) terminate this Agreement in accordance with clause 13.
- (f) The Coach reserves the right to vary the Fees by providing the Client with not less than 30 days' written notice. Any fee variation will take effect from the commencement of the next Subscription Period following expiry of the notice period. If the Client does not agree to the varied Fees, the Client may cancel their subscription in accordance with Schedule 2 before the variation takes effect.
- (g) The Client must not set off, deduct, or withhold any amount from the Fees except where required by law.

10. GST

- (a) Unless expressly stated otherwise, all amounts payable under this Agreement are exclusive of GST.
- (b) If GST is payable on a supply made under or in connection with this Agreement, the recipient of the supply must pay to the supplier an additional amount equal to the GST payable on the supply, at the same time and in the same manner as the consideration for the supply.
- (c) If the Coach is not registered for GST, clause 10(b) does not apply and all amounts payable are the total amounts payable.
- (d) Words used in this clause that are defined in the A New Tax System (Goods and Services Tax) Act 1999 (Cth) have the same meaning in this clause.

11. INTELLECTUAL PROPERTY

- (a) All Intellectual Property in the Program, training materials, content, methodologies, systems, ebooks, and other materials provided to the Client as part of the Services or as Digital Products is and remains the exclusive property of the Coach.
- (b) Subject to the Client's compliance with this Agreement and payment of the applicable Fees, the Coach grants the Client a limited, non-exclusive, non-transferable, non-sublicensable, revocable licence to:
 - (i) access and use the Program and training materials provided during the Term, solely for the Client's own personal, non-commercial use; and
 - (ii) access and use any Digital Products purchased by the Client, solely for the Client's own personal, non-commercial use, for the life of the product.
- (c) The Client must not, without the Coach's prior written consent:
 - (i) reproduce, copy, distribute, share, publish, broadcast, or make available to any third party any Program, training materials, ebooks, or other content provided by the Coach;
 - (ii) modify, adapt, reverse engineer, decompile, or create derivative works from any materials provided by the Coach;
 - (iii) use any materials provided by the Coach for any commercial purpose, including (without limitation) coaching, training, advising, or instructing third parties;
 - (iv) remove, alter, or obscure any copyright notice, trade mark, branding, watermark, or other proprietary marking on any materials provided by the Coach; or
 - (v) sublicense, sell, resell, rent, lease, or otherwise transfer any materials provided by the Coach to any third party.

- (d) The Client irrevocably and unconditionally consents to any act or omission by the Coach that would otherwise infringe the Client's Moral Rights in any feedback, testimonial, review, or content provided by the Client to the Coach, to the extent permitted by the Copyright Act 1968 (Cth). This consent extends to the Coach's licensees, successors, and assigns.
- (e) Nothing in this Agreement transfers ownership of any Intellectual Property from the Coach to the Client.
- (f) This clause survives termination or expiry of this Agreement.

12. CONFIDENTIALITY

- (a) Each Party must keep confidential all Confidential Information of the other Party and must not use or disclose that Confidential Information except:
 - (i) as required to perform its obligations or exercise its rights under this Agreement;
 - (ii) with the prior written consent of the disclosing Party;
 - (iii) to the Party's professional advisors who are bound by obligations of confidentiality;
 - (iv) as required by law, regulation, or a binding order of a court or tribunal; or
 - (v) as otherwise permitted under this Agreement (including in accordance with the Privacy Policy and Schedule 4).
- (b) The obligations in clause 12(a) do not apply to information that:
 - (i) is or becomes publicly available through no fault of the receiving Party;
 - (ii) was known to the receiving Party before disclosure by the disclosing Party;
 - (iii) is independently developed by the receiving Party without reference to the Confidential Information; or
 - (iv) is lawfully received from a third party without restriction on disclosure.
- (c) The Client's Personal Information and Health Information will be collected, held, used, and disclosed in accordance with the Privacy Policy and applicable Australian privacy law.
- (d) This clause survives termination or expiry of this Agreement.

13. TERMINATION AND SUSPENSION

13.1 Cancellation by the Client

The Client may cancel their subscription at any time by providing written notice to the Coach (by email or platform message). Cancellation will take effect at the end of the current Subscription Period. The Client will continue to have access to the Services until the end of that period. No refund will be provided for the remaining portion of a Subscription Period already paid, except as set out in Schedule 2.

13.2 Termination by the Coach for cause

The Coach may terminate this Agreement immediately by written notice if:

- (a) the Client breaches a material term of this Agreement and (where the breach is capable of remedy) fails to remedy the breach within 14 days of receiving written notice specifying the breach;
- (b) the Client fails to pay any Fees due under this Agreement after being given a reasonable opportunity to rectify the payment in accordance with clause 9(e);
- (c) in the Coach's reasonable opinion, continuing to provide the Services would pose a risk to the Client's health or safety;
- (d) the Client provides false or materially misleading information in their Onboarding Materials or during the Term;

- (e) the Client engages in conduct that is abusive, threatening, harassing, or otherwise inappropriate towards the Coach; or
- (f) the Client breaches clause 11 (Intellectual Property).

13.3 Termination by the Coach for convenience

The Coach may terminate this Agreement for any reason by providing the Client with not less than 30 days' written notice. Where the Coach terminates for convenience, the Coach will refund any prepaid Fees for Subscription Periods that have not yet commenced.

13.4 Suspension

The Coach may suspend the Services (in whole or in part) at any time if:

- (a) the Client has an outstanding payment that has not been rectified in accordance with clause 9(e);
- (b) the Coach reasonably considers that continued provision of the Services poses a risk to the Client's health or safety; or
- (c) a Force Majeure Event prevents the Coach from delivering the Services.

13.5 Effect of termination

Upon termination or expiry of this Agreement:

- (a) the Client's licence to use the Program and any training materials provided under this Agreement ceases immediately (except for any Digital Products purchased separately, which are subject to Schedule 3);
- (b) any outstanding Fees become immediately due and payable;
- (c) each Party must, on request, return or destroy any Confidential Information of the other Party (except to the extent that a Party is required by law to retain certain records); and
- (d) clauses that by their nature are intended to survive termination (including clauses 5, 11, 12, 14, 15, 16, 17, and 20) will continue in full force and effect.

14. LIMITATION OF LIABILITY

- (a) Nothing in this Agreement excludes, restricts, or modifies:
 - (i) any consumer guarantee, right, or remedy conferred on the Client by the ACL or any other applicable law that cannot be excluded, restricted, or modified by agreement;
 - (ii) the Coach's liability for death or personal injury caused by the Coach's negligence; or
 - (iii) the Coach's liability for fraud or fraudulent misrepresentation.
- (b) Subject to clause 14(a), the Coach's total aggregate liability to the Client under or in connection with this Agreement (whether in contract, tort, under statute, or otherwise) is limited to the total Fees paid by the Client to the Coach in the 3-month period immediately preceding the event giving rise to the liability.
- (c) Subject to clause 14(a), the Coach is not liable for any:
 - (i) indirect, incidental, special, consequential, or punitive loss or damage;
 - (ii) loss of income, revenue, profits, anticipated savings, data, goodwill, reputation, or opportunity; or
 - (iii) loss or damage arising from or in connection with any third-party claim, arising out of or in connection with this Agreement or the Services, however caused and regardless of whether the Coach was advised of the possibility of such loss or damage.
- (d) The Client acknowledges that:

- (e) physical exercise carries inherent risks of physical injury, including the risk of aggravation of pre-existing conditions;
- (f) the Coach does not guarantee any specific results from the Services or Digital Products;
- (g) results may vary between individuals depending on a range of factors outside the Coach's control; and
- (h) the limitations and exclusions in this clause 14 are reasonable having regard to the nature of the Services and the Fees payable.

15. INDEMNITY

- (a) The Client indemnifies the Coach against all claims, demands, actions, liabilities, losses, damages, costs, and expenses (including reasonable legal costs on a solicitor-and-own-client basis) arising out of or in connection with:
 - (i) any breach of this Agreement by the Client;
 - (ii) any negligent or wrongful act or omission of the Client;
 - (iii) the Client's failure to disclose material health information in accordance with clause 6;
 - (iv) the Client performing exercises in an unsafe environment or using defective or inappropriate equipment;
 - (v) the Client exceeding the intensity, frequency, or scope of exercise recommended by the Coach; or
 - (vi) any claim by a third party arising from the Client's use of the Program or materials provided by the Coach in breach of clause 11.
- (b) The indemnity in clause 15(a) is a continuing obligation, separate and independent from the Client's other obligations under this Agreement, and survives termination or expiry of this Agreement.
- (c) Nothing in this clause limits or excludes any rights the Client may have under the ACL.

16. INSURANCE

- (a) The Coach will maintain appropriate insurance coverage for the duration of the Term, including personal trainer insurance and professional indemnity insurance.
- (b) The Client acknowledges that the Coach's insurance does not cover the Client for injuries or losses sustained by the Client as a result of the Client's own actions, inactions, or failure to follow the Coach's reasonable instructions.
- (c) The Coach recommends that the Client obtain their own personal accident and health insurance prior to commencing the Program.

17. DISPUTE RESOLUTION

- (a) Negotiation: If a dispute arises in connection with this Agreement, a Party must not commence court proceedings (other than proceedings for urgent interlocutory relief) unless it has first complied with this clause 17.
- (b) The Party claiming a dispute exists must give written notice to the other Party specifying the nature of the dispute (**Dispute Notice**).
- (c) Within 14 days of receipt of a Dispute Notice, the Parties must meet (in person, by phone, or by video) and attempt in good faith to resolve the dispute through direct negotiation.
- (d) Mediation: If the dispute is not resolved within 28 days of the Dispute Notice, either Party may refer the dispute to mediation administered by a mediator agreed upon by the Parties.

If the Parties cannot agree on a mediator within 7 days of a request for mediation, either Party may request the Resolution Institute to appoint a mediator.

- (e) The costs of mediation will be borne equally by the Parties.
- (f) Nothing in this clause prevents a Party from seeking urgent interlocutory or injunctive relief from a court of competent jurisdiction.

18. FORCE MAJEURE

- (a) A Party is not liable for any failure to perform, or delay in performing, its obligations under this Agreement to the extent that the failure or delay is caused by a Force Majeure Event, provided that the affected Party:
 - (i) notifies the other Party as soon as practicable after becoming aware of the Force Majeure Event;
 - (ii) uses reasonable endeavours to mitigate the effects of the Force Majeure Event; and
 - (iii) resumes performance of its obligations as soon as practicable after the Force Majeure Event ceases.
- (b) If a Force Majeure Event continues for more than 60 consecutive days, either Party may terminate this Agreement by written notice to the other Party.

19. NOTICES

- (a) Any notice or communication required or permitted to be given under this Agreement must be in writing and may be given by:
 - (i) email to the email address last notified by the recipient; or
 - (ii) message via the Lawpath platform messaging function (where applicable).
- (b) A notice given by email is taken to be received at the time shown in the sender's email system as the time the email was sent, unless the sender receives an automated message indicating that the email was not delivered.

20. RELATIONSHIP OF THE PARTIES

- (a) The relationship between the Coach and the Client is that of independent contractor and client. Nothing in this Agreement creates or is intended to create a relationship of employer and employee, partnership, joint venture, or agency between the Parties.
- (b) The Coach is not an employee, agent, or partner of the Client, and the Client is not an employee, agent, or partner of the Coach.

21. GENERAL

21.1 Governing law

This Agreement is governed by and construed in accordance with the laws of the Australian Capital Territory. The Parties submit to the non-exclusive jurisdiction of the courts of the Australian Capital Territory and any courts competent to hear appeals from those courts.

21.2 Entire agreement

This Agreement (including all Schedules) constitutes the entire agreement between the Parties in relation to its subject matter and supersedes all prior agreements, negotiations, representations, warranties, undertakings, and understandings (whether written or oral) between the Parties.

21.3 Severability

If any provision of this Agreement is found to be invalid, illegal, or unenforceable by a court of competent jurisdiction, that provision is to be read down to the extent necessary to make it valid and enforceable, or if it cannot be so read down, it is to be severed from this Agreement. The remaining provisions continue in full force and effect.

21.4 Amendment

This Agreement may only be amended by a written document signed by both Parties, or (in the case of amendments to the Schedules, Privacy Policy, or Website Terms) by the Coach providing the Client with not less than 30 days' written notice, with the Client's continued use of the Services after the amendment takes effect constituting acceptance.

21.5 Waiver

A waiver of any right or remedy under this Agreement is only effective if it is in writing and signed by the Party granting the waiver. A failure or delay by a Party in exercising any right or remedy does not constitute a waiver of that right or remedy.

21.6 Assignment

The Client may not assign, novate, or transfer any of its rights or obligations under this Agreement without the Coach's prior written consent. The Coach may assign or novate this Agreement to a related body corporate or a successor to the Coach's business without the Client's consent, provided the assignee agrees to be bound by the terms of this Agreement.

21.7 No merger

The rights and obligations of the Parties under this Agreement do not merge on completion or termination of this Agreement.

21.8 Further assurances

Each Party must do all things and execute all documents reasonably necessary to give full effect to this Agreement.

21.9 Costs

Each Party must pay its own costs in connection with the negotiation, preparation, and execution of this Agreement.

21.10 Counterparts

This Agreement may be executed in any number of counterparts. Together, all counterparts make up one instrument.

22. COMPLAINTS

- (a) If the Client has a complaint about the Services, the Client should contact the Coach in writing (by email) setting out the nature of the complaint and the outcome sought.
- (b) The Coach will acknowledge the complaint within 5 Business Days and use reasonable endeavours to resolve the complaint within 14 Business Days.
- (c) If the complaint is not resolved to the Client's satisfaction, the Client may pursue the dispute resolution process set out in clause 17.

23. ACCEPTANCE

By subscribing to the Services, completing the onboarding process, or otherwise accepting these terms (including by click-wrap acceptance on the Website), the Client acknowledges that they have read, understood, and agree to be bound by the terms of this Agreement, including all Schedules.

SCHEDULE 1

INFORMED CONSENT AND RISK ACKNOWLEDGEMENT

1. PURPOSE

- (a) This Schedule forms part of the Online Coaching Services Agreement between the Coach and the Client (the Agreement). Terms defined in the Agreement have the same meaning in this Schedule.
- (b) The purpose of this Schedule is to ensure that the Client understands and acknowledges the risks associated with participation in the Program and gives their informed consent to participate.

2. ACKNOWLEDGEMENT OF RISKS

- (a) The Client acknowledges that participation in physical exercise and training programs, including online coaching programs where exercises are performed without direct in-person supervision, involves inherent risks. These risks include, but are not limited to:
 - (i) physical injury, including muscular, skeletal, ligament, tendon, or cardiovascular injury;
 - (ii) aggravation or exacerbation of pre-existing injuries, conditions, or health issues;
 - (iii) overtraining, physical exhaustion, fatigue, delayed onset muscle soreness, or chronic fatigue;
 - (iv) injury resulting from improper exercise technique, form, or execution, particularly in unsupervised settings;
 - (v) injury resulting from use of faulty, inappropriate, or improperly maintained equipment;
 - (vi) adverse reactions to changes in physical activity levels; and
 - (vii) in rare cases, serious injury, cardiac event, or medical emergency.
- (b) The Client acknowledges that the Coach cannot physically supervise the Client during exercise sessions and therefore cannot assess or correct the Client's technique, form, or execution in real time.
- (c) The Client voluntarily assumes all risks associated with participating in the Program, having been informed of and understanding those risks.

3. PRE-EXERCISE SCREENING

- (a) The Client must complete the Adult Pre-Exercise Screening System (APSS) questionnaire, or such other pre-exercise screening tool as the Coach may reasonably require, prior to the Commencement Date.
- (b) The Client must answer all screening questions truthfully, completely, and to the best of their knowledge.
- (c) If the screening indicates that the Client is at moderate or high risk, the Coach may:

- (i) require the Client to obtain written medical clearance from a qualified medical practitioner before commencing or continuing the Program;
 - (ii) modify the Program to accommodate the Client's risk profile; or
 - (iii) decline to provide the Services if the Coach reasonably considers that doing so would pose an unacceptable risk.
- (d) The Coach may require updated screening at reasonable intervals during the Term, including following any injury, illness, or extended period of inactivity.

4. HEALTH DISCLOSURE AND ONGOING OBLIGATIONS

- (a) The Client represents and warrants that they have disclosed to the Coach, fully and accurately, all known:
- (i) medical conditions (including chronic conditions, cardiovascular conditions, metabolic conditions, and mental health conditions);
 - (ii) current and past injuries (including musculoskeletal injuries, surgeries, and rehabilitation history);
 - (iii) physical limitations, disabilities, or restrictions on movement;
 - (iv) allergies (including exercise-induced allergies);
 - (v) medications (including any medications that may affect heart rate, blood pressure, coordination, or physical performance); and
 - (vi) any other health information that may affect the Client's ability to safely participate in the Program.
- (b) The Client must notify the Coach immediately (and in any event within 48 hours) of any new injury, illness, surgery, change in medication, or change in health status during the Term.
- (c) The Client acknowledges that failure to make a full and accurate disclosure may:
- (i) result in a Program that is inappropriate or unsafe for the Client;
 - (ii) increase the risk of injury; and
 - (iii) affect the Coach's liability, as the Coach cannot be held responsible for injury or loss arising from the Client's failure to disclose material health information.

5. NATURE OF SERVICES – LIMITATIONS

The Client acknowledges and understands that:

- (a) the Coach is an accredited exercise scientist, exercise physiologist, and personal trainer registered with Exercise & Sports Science Australia (ESSA);
- (b) the Coach is not a registered medical practitioner, physiotherapist, chiropractor, osteopath, dietitian, accredited practising dietitian, nutritionist, psychologist, or other registered or regulated health professional;
- (c) the Services do not constitute medical advice, diagnosis, treatment, physiotherapy, chiropractic care, dietetic advice, or any other form of regulated health service;
- (d) the Client should not rely on the Services as a substitute for professional medical advice, and should consult a qualified medical practitioner regarding any health concerns before, during, or after participation in the Program; and
- (e) any general wellness guidance provided by the Coach is subject to the limitations and disclaimers in clause 5 of the Agreement.

6. ASSUMPTION OF RISK AND RELEASE

- (a) Subject to clause 6(c), and to the maximum extent permitted by law, the Client:
 - (i) assumes all risk of injury, loss, or damage arising out of or in connection with their participation in the Program; and
 - (ii) releases and discharges the Coach from all claims, demands, actions, suits, and proceedings arising out of or in connection with their participation in the Program.
- (b) The release in clause 6(a) does not apply to the extent that the injury, loss, or damage was caused by the Coach's negligence, recklessness, or wilful misconduct.
- (c) Nothing in this Schedule excludes, restricts, or modifies any consumer guarantee, right, or remedy conferred on the Client by the ACL or any other applicable law that cannot be excluded, restricted, or modified by agreement.

7. CLIENT DECLARATION

By completing the onboarding process and accepting this Agreement, the Client confirms that they:

- (a) have read and understood this Informed Consent and Risk Acknowledgement in its entirety;
- (b) have had the opportunity to ask the Coach questions about the risks, limitations, and nature of the Services;
- (c) have been encouraged by the Coach to seek independent medical advice before commencing the Program;
- (d) voluntarily consent to participate in the Program with full knowledge of the risks involved;
- (e) have disclosed all relevant health information to the Coach truthfully, completely, and to the best of their knowledge; and
- (f) accept the terms of this Schedule.

SCHEDULE 2

REFUND, CANCELLATION AND SUBSCRIPTION POLICY

1. APPLICATION

This Schedule forms part of the Agreement and sets out the terms applicable to subscription billing, cancellation, and refunds for the Services.

2. SUBSCRIPTION TERMS

- (a) The Services are provided on a monthly subscription basis. Each Subscription Period runs for one calendar month from the Commencement Date or the most recent renewal date (as applicable).
- (b) Subscriptions automatically renew at the end of each Subscription Period unless cancelled by the Client in accordance with this Schedule.
- (c) The Coach will process subscription payments via Stripe (or such other payment platform as the Coach may notify the Client). The Client authorises the Coach to charge the Client's nominated payment method at the commencement of each Subscription Period.
- (d) The Coach will provide the Client with a receipt or confirmation for each payment processed.

3. CANCELLATION BY THE CLIENT

- (a) The Client may cancel their subscription at any time by providing written notice to the Coach (by email or platform message).
- (b) Cancellation takes effect at the end of the current Subscription Period in which notice is given. The Client will continue to have access to the Services until the end of that Subscription Period.
- (c) The Client is not required to give any minimum notice period beyond the current Subscription Period.

4. CANCELLATION OR SUSPENSION BY THE COACH

- (a) The Coach may cancel or suspend a subscription in the circumstances set out in clause 13 of the Agreement.
- (b) Where the Coach terminates for convenience under clause 13.3 of the Agreement, the Coach will refund any prepaid Fees for Subscription Periods that have not yet commenced.

5. REFUNDS

- (a) Subscription Fees are non-refundable once a Subscription Period has commenced, except where:
 - (i) the Coach has materially failed to provide the Services in accordance with the Agreement and has not remedied the failure within a reasonable period after receiving written notice from the Client;
 - (ii) a refund is required under the ACL, including where the Services are not provided with due care and skill, are not fit for a particular purpose communicated by the Client, or are not provided within a reasonable time;
 - (iii) the Coach terminates the Agreement for convenience under clause 13.3; or
 - (iv) the Coach agrees to provide a refund at their sole discretion.

- (b) Refund requests must be submitted in writing to the Coach within 14 days of the event giving rise to the refund claim, setting out the grounds for the request.
- (c) Where a refund is approved, it will be processed to the Client's original payment method within 14 Business Days of approval.
- (d) The Coach will notify the Client of the outcome of their refund request within 7 Business Days.

5A. Money-Back Guarantee

- (a) The Coach offers a money-back guarantee in respect of the coaching Services. If the Client is not satisfied with the Services for any reason, the Client may request a full refund of all Fees paid for the coaching Services, provided that the Client gives written notice to the Coach within the Money-Back Guarantee Period (the Guarantee Claim).
- (b) A Guarantee Claim must be submitted in writing to the Coach (by email) within 30 days of the Commencement Date. A Guarantee Claim submitted after the expiry of the Money-Back Guarantee Period will not be accepted under this clause 5A (but the Client's rights under clause 5 and the ACL are not affected).
- (c) Upon receipt of a valid Guarantee Claim, the Coach will:
 - i. process a full refund of all subscription Fees paid by the Client for the coaching Services to the Client's original payment method within 14 Business Days; and
 - ii. terminate the Client's subscription and access to the coaching Services effective from the date of the refund.
- (e) The money-back guarantee does not apply to:
 - i. standalone Digital Product purchases made under Schedule 3, which are subject to the refund terms in that Schedule; or
 - ii. any Fees paid by the Client for services or products other than the coaching Services under this Agreement.
- (f) The money-back guarantee is available once per Client. A Client who has received a refund under this clause 5A and subsequently re-engages the Coach for coaching Services is not entitled to a further refund under this clause.
- (g) For the avoidance of doubt, a refund under this clause 5A does not affect or limit the Client's statutory rights under the ACL.

6. FAILED PAYMENTS

- (a) If a scheduled payment fails, the Coach will notify the Client and provide at least 7 days to update their payment details or rectify the failed payment.
- (b) The Coach may attempt to reprocess the failed payment up to 2 times during the rectification period.
- (c) If the payment is not rectified within the rectification period, the Coach may suspend or terminate the subscription in accordance with the Agreement.

7. CONSUMER GUARANTEES

- (a) The Client's rights under the ACL are not affected by this Schedule.
- (b) Where the Services are supplied to the Client as a consumer within the meaning of the ACL, the Client has certain statutory rights and remedies (including, in certain circumstances, the right to a refund, repair, or replacement) that cannot be excluded, restricted, or modified by agreement.

- (c) Nothing in this Schedule is intended to exclude, restrict, or modify any consumer guarantee under the ACL.
- (d) For the avoidance of doubt, nothing in this Schedule prevents the Client from making a claim under the ACL at any time, regardless of any time limits set out in this Schedule for refund requests.

8. FEE CHANGES

- (a) The Coach may vary the subscription Fees in accordance with clause 9(f) of the Agreement.
- (b) If the Client does not agree to a fee increase, the Client may cancel their subscription before the increased Fees take effect, without penalty.

SCHEDULE 3

DIGITAL PRODUCT TERMS

1. APPLICATION

- (a) This Schedule forms part of the Agreement and applies to the purchase, delivery, and use of Digital Products offered by the Coach.
- (b) Digital Products include, but are not limited to, ebooks, training program guides, exercise templates, and other digital resources made available for purchase via the Website.
- (c) Digital Products may be purchased independently of the coaching Services as a standalone, one-off purchase.

2. PURCHASE AND PAYMENT

- (a) Digital Products are sold on a one-off purchase basis. Payment is due at the time of purchase and will be processed via Stripe or such other payment platform as is available on the Website.
- (b) The purchase price of each Digital Product is as displayed on the Website at the time of purchase.
- (c) Upon successful payment, the Coach will provide the Client with access to the purchased Digital Product by way of a download link, email delivery, or such other method as specified at the time of purchase.

3. LICENCE

- (a) Upon payment, the Client is granted a limited, non-exclusive, non-transferable, non-sublicensable, perpetual (subject to clause 3(c)) licence to access and use the Digital Product for the Client's own personal, non-commercial use.
- (b) The purchase of a Digital Product is a licence to use the content. It is not a sale or transfer of ownership. All Intellectual Property in the Digital Product remains the exclusive property of the Coach.
- (c) The Coach may revoke the licence granted under clause 3(a) if the Client breaches the restrictions in clause 4.

4. RESTRICTIONS

The Client must not:

- (a) reproduce, copy, duplicate, distribute, share, resell, sublicense, publish, broadcast, or make available any Digital Product (or any part of it) to any third party, in any form or by any means;
- (b) modify, adapt, translate, reverse engineer, decompile, or create derivative works from any Digital Product;
- (c) use any Digital Product for any commercial purpose, including (without limitation) coaching, training, advising, or instructing third parties, or incorporating the content into the Client's own products or services;
- (d) remove, alter, or obscure any copyright notice, branding, watermark, or other proprietary marking on any Digital Product;
- (e) upload any Digital Product (or any part of it) to any file-sharing service, peer-to-peer network, social media platform (except brief excerpts for the purpose of a genuine personal review), or publicly accessible website; or

- (f) permit any third party to do any of the acts prohibited by this clause 4.

5. DELIVERY AND ACCESS

- (a) Digital Products are delivered electronically in PDF format (or such other format as specified at the time of purchase) via download link or email following successful payment.
- (b) The Coach will use reasonable endeavours to deliver the Digital Product within 24 hours of payment. Delivery may be instantaneous where automated systems are in place.
- (c) The Coach is not responsible for delivery failures caused by the Client providing incorrect contact details, the Client's email provider filtering the delivery email as spam, or technical issues on the Client's end (including incompatible devices or insufficient storage).
- (d) If the Client does not receive the Digital Product within 48 hours of payment, the Client should contact the Coach to arrange redelivery.

6. REFUNDS FOR DIGITAL PRODUCTS

- (a) Due to the nature of digital products, refunds are generally not available once the Digital Product has been delivered or the download link has been accessed, except where:
 - (i) the Digital Product is materially defective, corrupted, or unreadable;
 - (ii) the Digital Product is substantially different from its description on the Website;
 - (iii) a refund is required under the ACL or any other applicable law; or
 - (iv) the Coach agrees to a refund at their sole discretion.
- (b) Refund requests must be submitted in writing to the Coach within 14 days of purchase, setting out the grounds for the request.
- (c) Consumer guarantees under the ACL apply to Digital Products. The Client's statutory rights under the ACL are not affected by this clause.

7. DISCLAIMER AND LIMITATION

- (a) Digital Products are provided for general informational and educational purposes only. They do not constitute personalised training advice, medical advice, dietary advice, or any other form of professional advice tailored to the Client's individual circumstances.
- (b) The Coach does not guarantee any specific results from the use of any Digital Product. Results will vary between individuals depending on a range of factors including fitness level, consistency, effort, nutrition, genetics, and individual health circumstances.
- (c) The Client should consult a qualified health professional before commencing any training program contained in a Digital Product.
- (d) The Client acknowledges that some Digital Products may contain images sourced from third-party providers under licence. The Coach does not claim ownership of third-party images.

8. UPDATES

- (a) Digital Products are provided as-is at the time of purchase. The Coach is under no obligation to update, revise, or supplement any Digital Product after delivery.
- (b) If the Coach chooses to release an updated version of a Digital Product, the Coach may (but is not obliged to) make the updated version available to existing purchasers.

SCHEDULE 4

TESTIMONIAL AND MEDIA CONSENT

1. APPLICATION

- (a) This Schedule forms part of the Agreement and sets out the terms on which the Client may consent to the Coach using certain materials for marketing and promotional purposes.
- (b) Participation under this Schedule is entirely voluntary. The Client is under no obligation to provide any materials, and a decision not to participate will not affect the provision of Services under the Agreement.

2. CONSENT TO USE

Subject to this Schedule, the Client consents to the Coach collecting, using, and disclosing the following materials in connection with the promotion, marketing, and advertising of the Coach's business (**Permitted Materials**):

- (a) the Client's first name or, where the Client expressly agrees, their full name;
- (b) photographs, videos, or images of the Client, including before-and-after photographs and progress images;
- (c) written or verbal testimonials, reviews, endorsements, or feedback provided by the Client;
- (d) case studies or success stories based on the Client's experience (in de-identified or identified form, as agreed); and
- (e) the Client's training results, progress data, body measurements, or outcomes (in de-identified or identified form, as agreed).

3. PERMITTED CHANNELS

- (a) The Coach may use the Permitted Materials on:
 - (i) the Coach's Website;
 - (ii) the Coach's social media accounts, including Instagram, Facebook, YouTube, TikTok, LinkedIn, and any future platforms used by the Coach;
 - (iii) email marketing, newsletters, and automated marketing sequences;
 - (iv) print or digital advertising materials, including flyers, brochures, and online advertisements; and
 - (v) pitch decks, case studies, and business development materials.
- (b) The Coach will not use the Permitted Materials in a manner that is misleading, deceptive, defamatory, or likely to bring the Client into disrepute.

4. HEALTH INFORMATION AND PRIVACY

- (a) The Client acknowledges that some Permitted Materials may contain Health Information (such as body measurements, fitness outcomes, progress photographs, or health-related testimonials).
- (b) Under the Privacy Act 1988 (Cth) and the Australian Privacy Principles, the use and disclosure of Health Information for marketing purposes requires the Client's explicit consent.

- (c) By accepting this Schedule, the Client gives their explicit, informed consent to the collection, use, and disclosure of any Health Information contained in the Permitted Materials, solely for the marketing and promotional purposes described in this Schedule.
- (d) The Coach will handle all Permitted Materials in accordance with the Privacy Policy.

5. WITHDRAWAL OF CONSENT

- (a) The Client may withdraw their consent under this Schedule at any time by providing written notice to the Coach (by email).
- (b) Upon receiving notice of withdrawal, the Coach will:
 - (i) cease using the Client's Permitted Materials in new marketing and promotional activities as soon as practicable; and
 - (ii) use reasonable endeavours to remove the Client's Permitted Materials from the Coach's active marketing channels (including the Website and social media accounts) within 30 days of receiving the notice.
- (c) The Client acknowledges that:
 - (i) it may not be practicable to remove materials that have already been shared, reposted, or distributed by third parties (including social media users who have shared the Coach's content);
 - (ii) cached, archived, or indexed versions of web content may persist on third-party platforms or search engines beyond the Coach's control; and
 - (iii) materials that have been distributed in print cannot be recalled.
- (d) Withdrawal of consent does not affect the lawfulness of any use of the Permitted Materials prior to the withdrawal.

6. REPRESENTATIONS AND WARRANTIES

Where the Client provides a testimonial, review, or feedback to the Coach, the Client represents and warrants that:

- (a) the testimonial reflects the Client's genuine opinion and experience;
- (b) the testimonial is not false, misleading, or deceptive;
- (c) the Client has not received any benefit, discount, or incentive that was conditional on the content or tone of the testimonial; and
- (d) the Client has the right to provide the testimonial and any accompanying images or materials, and doing so does not infringe the rights of any third party.

7. COMPLIANCE

- (a) The Coach will not provide the Client with any benefit, discount, or incentive that is conditional on the Client providing a testimonial, endorsement, or review, in compliance with the ACL provisions relating to testimonials.
- (b) Where the Coach uses a testimonial in marketing materials, the Coach will (where required by applicable law or industry codes) identify it as a testimonial or indicate the nature of the relationship with the Client.