Version: Fitr Training - Coach Terms V1

COACH TERMS

YOUR ATTENTION IS PARTICULARLY DRAWN TO THE PROVISIONS OF CLAUSE 13 (LIMITATION OF LIABILITY).

ABOUT US

Fitr Training details. Fitr. Holdings Limited (company number 09759426) **(Fitr Training/we /us)** is a company registered in England and Wales and our registered office is at Richmond House, Walkern Road, Stevenage, Hertfordshire, England, SG1 3QP. Our VAT number is GB 228697561. We operate the website get.fitr.training.

AGREED TERMS

1. Interpretation

1.1 The definitions and rules of interpretation in this clause apply in this Agreement.

Billing Cycle: consecutive periods of one month with the first Billing Cycle running from the day on which a Coach sets up their account on the Site

Business Day: a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business.

Clients: clients of the Coach for remote coaching services who, using a link provided by the Coach, link into, register on and use the Site as part of the services that the Coach provides to its clients.

Coach: the person, firm or company registering to use the Site as a coach.

Coach Data: the data (but not personal data) inputted by the Coach or Fitr Training on the Coach's behalf for the purpose of using the Services or facilitating the Coach's use of the Services.

Coach personal data: personal data relating to the Coach or employees or personnel engaged by the Coach.

Confidential Information: information that is proprietary or confidential and is either clearly labelled as such or identified as Confidential Information in clause 11.5 or clause 11.6.

Controller, processor, data subject, personal data, personal data breach, processing and appropriate technical and organisational measures: as defined in the Data Protection Legislation.

Data Protection Legislation: the UK Data Protection Legislation and any other European Union legislation relating to personal data and all other legislation and regulatory requirements in force from time to time which apply to a party relating to the use of personal data (including, without limitation, the privacy of electronic communications); and the guidance and codes of practice issued by the relevant data protection or supervisory authority and applicable to a party.

Documentation: the information made available to the Coach by Fitr Training online via the Site or such other web address notified by Fitr Training to the Coach from time to time which sets out a description of the Services and the user instructions for the Services.

Effective Date: the date of this Agreement.

Fees: the fees payable by the Coach to Fitr Training for the Services as specified in clause 9.

Services: the remote coaching platform provided by Fitr Training to the Coach under this Agreement via the Site or any other website notified to the Coach by Fitr Training from time to time, as more particularly described in the Documentation.

Site app.fitr.training

Term: has the meaning given in clause 14.1.

UK Data Protection Legislation: all applicable data protection and privacy legislation in force from time to time in the UK including the General Data Protection Regulation ((EU) 2016/679); the Data Protection Act 2018; the Privacy and Electronic Communications Directive 2002/58/EC (as updated by Directive 2009/136/EC) and the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) as amended.

Virus: any thing or device (including any software, code, file or program) which may: prevent, impair or otherwise adversely affect the operation of any computer software, hardware or network, any telecommunications service, equipment or network or any other service or device; prevent, impair or otherwise adversely affect access to or the operation of any program or data, including the reliability of any program or data (whether by re-arranging, altering or erasing the program or data in whole or part or otherwise); or adversely affect the user experience, including worms, trojan horses, viruses and other similar things or devices.

1.2 Clause, schedule and paragraph headings shall not affect the interpretation of this Agreement.

1.3 A person includes an individual, corporate or unincorporated body (whether or not having separate legal personality) and that person's legal and personal representatives, successors or permitted assigns.

1.4 A reference to a company shall include any company, corporation or other body corporate, wherever and however incorporated or established.

1.5 Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.

1.6 Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.

1.7 A reference to a statute or statutory provision is a reference to it as it is in force as at the date of this Agreement.

1.8 A reference to a statute or statutory provision shall include all subordinate legislation made as at the date of this Agreement under that statute or statutory provision.

1.9 A reference to writing or written includes e-mail but not fax.

1.10 References to clauses and schedules are to the clauses and schedules of this Agreement; references to paragraphs are to paragraphs of the relevant schedule to this Agreement.

1.11 If there is any conflict between the terms of this Agreement and the Fitr Training Website Terms of Use then this Agreement shall prevail.

2. License

2.1 By accepting this Agreement by clicking the 'accept' button on the registration page on the Site, the Coach unequivocally agrees to all the terms of this Agreement as being legally binding between the Coach and Fitr Training.

2.2 To register on the Site as a Coach you must be at least 18 years of age. Do not attempt to register if you do not meet this age qualification.

2.3 Fitr Training hereby grants to the Coach a non-exclusive, non-transferable right, without the right to grant sub licences, to use the Services and the Documentation during the Term solely for the Coach's personal training services. The rights provided under this clause 2 are granted to the Coach only.

2.4 The Coach shall keep a secure password for its use of the Services and Documentation. Such password shall be changed as frequently as may be directed by Fitr Training and the Coach shall keep its password confidential at all times;

2.5 The Coach shall not access, store, upload, distribute or transmit any Viruses, or any material during the course of its use of the Services that:

(a) is unlawful, harmful, threatening, defamatory, obscene, infringing, harassing or racially or ethnically offensive;

(b) facilitates illegal activity;

(c) depicts sexually explicit images;

(d) promotes unlawful violence;

(e) is discriminatory based on race, gender, colour, religious belief, sexual orientation, disability; or

(f) is otherwise illegal or causes damage or injury to any person or property;

Fitr Training has the right to remove any posting made by the Coach on the Site if, in its opinion, such post does not comply with the content standards set in this clause.

2.6 The Coach warrants that any content made available to Clients or otherwise uploaded on the Site shall comply with the standards set out in clause 2.4.

2.7 Any training program content that the Coach uploads to the Site will be considered non-confidential and non-proprietary. The Coach retains all of its ownership rights in its content, but the Coach hereby grants Fitr Training a limited licence to use, store and copy that content and to distribute and make it available to third parties.

2.8 The Coach shall not:

(a) except as may be allowed by any applicable law which is incapable of exclusion by agreement between the parties and except to the extent expressly permitted under this Agreement:

(i) attempt to copy, modify, duplicate, create derivative works from, frame, mirror, republish, download, display, transmit, or distribute all or any portion of the Site and/or Documentation (as applicable) in any form or media or by any means; or

(ii) attempt to de-compile, reverse compile, disassemble, reverse engineer or otherwise reduce to human-perceivable form all or any part of the Site; or

(b) access all or any part of the Services and Documentation in order to build a product or service which competes with the Services and/or the Documentation; or

(c) subject to clause 22.1, license, sell, rent, lease, transfer, assign, distribute, display, disclose, or otherwise commercially exploit, or otherwise make the Services and/or Documentation available to any third party, or

(d) attempt to obtain, or assist third parties in obtaining, access to the Services and/or Documentation, other than as provided under this clause 2; or

(e) introduce or permit the introduction of, any Virus into Fitr Training's network and information systems.

2.9 The Coach shall use all reasonable endeavours to prevent any unauthorised access to, or use of, the Services and/or the Documentation and, in the event of any such unauthorised access or use, promptly notify Fitr Training.

2.10 Fitr Training has the right to disclose the Coach's identity to any third party who is claiming that any content posted or uploaded by the Coach to the Site constitutes a violation of their intellectual property rights, or of their right to privacy.

3. Services

3.1 Fitr Training shall, during the Term, provide the Services and make available the Documentation to the Coach on and subject to the terms of this Agreement.

3.2 Fitr Training shall use commercially reasonable endeavours to make the Services available 24 hours a day, seven days a week, except that on occasion we may need to carry out emergency maintenance in which case Fitr Training will use reasonable endeavours to notify give the Coach by email or live chat.

3.3 Fitr Training will, as part of the Services and at no additional cost to the Coach, make available to the Coach support via live chat and its help centre (https://intercom.help/fitr_training/en/).

4. Coach data

4.1 The Coach shall own all right, title and interest in and to all of the Coach Data and shall have sole responsibility for the legality, reliability, integrity, accuracy and quality of all such Coach Data.

4.2 Fitr Training's current back-up policy is to back-up its servers on a daily basis and to retain 30 days' back-ups. Fitr Training reserves the right in its sole discretion to amend this policy from time to time. In the event of any loss or damage to Coach Data, the Coach's sole and exclusive remedy against Fitr Training shall be for Fitr Training to use reasonable commercial endeavours to restore the lost or damaged Coach Data from the latest back-up of such Coach Data maintained by Fitr Training. Fitr Training shall not be responsible for any loss, destruction, alteration or disclosure of Coach Data caused by any third party (except those third parties sub-contracted by Fitr Training to perform services related to Coach Data maintenance and back-up for which it shall remain fully liable under clause 5.4.

4.3 Fitr Training shall, in providing the Services, take all reasonable steps to ensure the privacy and security of the Coach Data.

5. Data Protection

5.1 Both parties will comply with all applicable requirements of the Data Protection Legislation in relation to Coach personal data. This clause 5 is in addition to, and does not relieve, remove or replace, a party's obligations or rights under the Data Protection Legislation. In this clause 5, **Applicable Laws** means (for so long as and to the extent that they apply to Fitr Training) the law of the European Union, the law of any member state of the European Union and/or Domestic UK Law; and **Domestic UK Law** means the UK Data Protection Legislation and any other law that applies in the UK.

5.2 The parties acknowledge that for the purposes of the Data Protection Legislation, the Coach is the controller of the Coach personal data and Fitr Training is the processor.

5.3 Without prejudice to the generality of clause 5.1, Fitr Training shall, in relation to any Coach personal data processed in connection with the performance by Fitr Training of its obligations under the Contract:

(a) process that personal data only on the documented instructions of the Coach as set out in this Agreement unless Fitr Training is required by Applicable Laws to otherwise process that personal data. Where Fitr Training is relying on Applicable Laws as the basis for processing personal data, Fitr Training shall promptly notify the Coach of this before performing the processing required by the Applicable Laws unless those Applicable Laws prohibit Fitr Training from so notifying the Coach;

(b) ensure that it has in place appropriate technical and organisational measures to protect against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures (those measures may include, where appropriate, pseudonymising and encrypting personal data, ensuring confidentiality, integrity, availability and resilience of its systems and services, ensuring that availability of and access to personal data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the technical and organisational measures adopted by it);

(c) ensure that all personnel who have access to and/or process personal data are obliged to keep the personal data confidential; and

(d) not transfer any personal data outside of the European Economic Area unless the prior written consent of the Coach has been obtained and the following conditions are fulfilled:

(i) the Coach or Fitr Training has provided appropriate safeguards in relation to the transfer;

(ii) the data subject has enforceable rights and effective legal remedies;

(iii) Fitr Training complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any personal data that is transferred; and

(iv) Fitr Training complies with reasonable instructions notified to it in advance by the Coach with respect to the processing of the personal data;

(e) assist the Coach, at the Coach's cost, in responding to any request from a data subject and in ensuring compliance with its obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;

(f) notify the Coach without undue delay on becoming aware of a personal data breach;

(g) at the written direction of the Coach, delete or return personal data and copies thereof to the Coach on termination of the agreement unless required by Applicable Law to store the personal data; and

(h) maintain complete and accurate records and information to demonstrate its compliance with this clause 5 and allow for audits by the Coach or the Coach's designated auditor and immediately inform the Coach if, in the opinion of Fitr Training, an instruction infringes the Data Protection Legislation.

5.4 The Coach consents to Fitr Training appointing third party processors including payment service providers to process of personal data under the Contract. Fitr Training confirms that it has entered or (as the case may be) will enter with any such third party processor into a written agreement substantially on that third party's standard terms of business which Fitr Training confirms will reflect and will continue to reflect the requirements of the Data Protection Legislation. As between the Coach and Fitr Training, Fitr Training shall remain liable for all acts or omissions of any third party processor appointed by it pursuant to this clause 5.

5.5 Fitr Training may, at any time on not less than 30 days' notice, revise this clause 5 by replacing it with any applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme (which shall apply when replaced by attachment to this Agreement).

6. Third party providers

The Coach acknowledges that the Services may enable or assist it to access the website content of, correspond with, and purchase products and services from, third parties via third-party websites and that it does so solely at its own risk. Fitr Training makes no representation, warranty or commitment and shall have no liability or obligation whatsoever in relation to the content or use of, or correspondence with, any such third-party website, or any transactions completed, and any contract entered into by the Coach, with any such third party. Any contract entered into and any transaction completed via any third-party website is between the Coach and the relevant third party, and not Fitr Training. Fitr Training recommends that the Coach refers to the third party's website terms and conditions and privacy policy prior to using the relevant third-party website. Fitr Training does not endorse or approve any third-party website nor the content of any of the third-party website made available via the Services.

7. Fitr Training's obligations

7.1 Fitr Training undertakes that the Services will be provided substantially in accordance with the Documentation and with reasonable skill and care.

7.2 The undertaking at clause 7.1 shall not apply to the extent of any non-conformance which is caused by use of the Services contrary to Fitr Training's instructions, or modification or alteration of the Services by any party other than Fitr Training or Fitr Training's duly authorised contractors or agents. If the Services do not conform with the foregoing undertaking, Supplier will, at its expense, use all reasonable commercial endeavours to correct any such non-conformance promptly, or provide the Coach with an alternative means of accomplishing the desired performance. Such correction or substitution constitutes the Coach's sole and exclusive remedy for any breach of the undertaking set out in clause 7.1.

7.3 Fitr Training:

(a) does not warrant that:

(i) the Coach's use of the Services will be uninterrupted or error-free; or

(ii) that the Services, Documentation and/or the information obtained by the Coach through the Services will meet the Coach's requirements.

(b) is not responsible for any delays, delivery failures, or any other loss or damage resulting from the transfer of data over communications networks and facilities, including the internet, and the Coach acknowledges that the Services and Documentation may be subject to limitations, delays and other problems inherent in the use of such communications facilities.

7.4 This Agreement shall not prevent Fitr Training from entering into similar agreements with third parties, or from independently developing, using, selling or licensing documentation, products and/or services which are similar to those provided under this Agreement.

8. Coach's obligations

8.1 The Coach shall:

(a) provide Fitr Training with:

(i) all necessary co-operation in relation to this Agreement; and

(ii) all necessary access to such information as may be required by Fitr Training;

in order to provide the Services, including but not limited to Coach Data, security access information and configuration services;

(b) comply with the Fitr Training Privacy Notice and Website Terms of Use as published on the Site from time to time;

(c) without affecting its other obligations under this Agreement, comply with all applicable laws and regulations with respect to its activities under this Agreement;

(d) carry out all other Coach responsibilities set out in this Agreement in a timely and efficient manner. In the event of any delays in the Coach's provision of such assistance as agreed by the parties, Fitr Training may adjust any agreed timetable or delivery schedule as reasonably necessary;

(e) treat Clients fairly and professionally at all times;

(f) obtain and shall maintain all necessary licences, consents, and permissions necessary for Fitr Training, its contractors and agents to perform their obligations under this Agreement, including without limitation the Services;

(g) ensure that its network and systems comply with the relevant specifications provided by Fitr Training from time to time; and

(h) be, to the extent permitted by law and except as otherwise expressly provided in this Agreement, solely responsible for procuring, maintaining and securing its network connections and telecommunications links from its systems to Fitr Training's data centres, and all problems, conditions, delays, delivery failures and all other loss or damage arising from or relating to the Coach's network connections or telecommunications links or caused by the internet.

9. Fees and payment

9.1 The Coach shall pay Fees for the Services in accordance with this clause 9.

9.2 The Fees shall comprise:

(a) A flat rate of 5% per Client transaction to be split between Fitr Training and Stripe in varying proportions depending upon whether the payment account is within or outside of the EU; and

(b) Monthly fees payable to Fitr Training in accordance with Fitr Training's prices published on the Site from time to time.

9.3 All payments are processed by our third party payment provider Stripe. When completing the registration process the Coach may be required to provide information to Stripe including:

(a) ID documentation. In line with current anti money laundering legislation requirements the Coach's ID must be verified before payments can be made to you; and

(b) valid, up-to-date and complete bank account details and any other relevant valid, up-to-date and complete contact and billing details.

9.4 The Coach shall set the price for each program offered by it on the Site or can offer fitness, health and other related programs free of charge. The price payable by any Client is collected by Stripe from which Stripe shall deduct the Fees. From the dashboard on the Site, the Coach can see payments pending and actually received by Stripe on the Coach's account.

9.5 On a weekly basis Stripe will transfer the net balance shown on the Coach's account to the Coach.

9.6 All Fees stated or referred to in this Agreement:

(a) shall be payable in pounds sterling or the equivalent in any local currency relevant to the Coach dealt in by Stripe; and

(b) are inclusive of all sales and other applicable taxes, which shall be included on Fitr Training's invoice(s) at the appropriate rate.

9.7 If any dispute arises as to the amount of Fees payable by the Coach to Fitr Training, the same shall be referred to Fitr Training's auditors for settlement and their certificate shall be final and binding on both parties.

9.8 Fitr Training shall be entitled to review and increase the Fees by not less than 30 days' written notice to the Coach.

9.9 The Coach shall be responsible for dealing with any payment queries or refund requests raised by Clients in a timely and professional manner.

10. Proprietary rights

10.1 The Coach acknowledges and agrees that Fitr Training and/or its licensors own all intellectual property rights in the Services and the Documentation. Except as expressly stated herein, this Agreement does not grant the Coach any rights to, under or in, any patents, copyright, database right, trade secrets, trade names, trade marks (whether registered or unregistered), or any other rights or licences in respect of the Services or the Documentation.

10.2 Fitr Training confirms that it has all the rights in relation to the Services and the Documentation that are necessary to grant all the rights it purports to grant under, and in accordance with, the terms of this Agreement.

11. Confidentiality

11.1 Each party may be given access to Confidential Information from the other party in order to perform its obligations under this Agreement. A party's Confidential Information shall not be deemed to include information that:

(a) is or becomes publicly known other than through any act or omission of the receiving party;

(b) was in the other party's lawful possession before the disclosure;

(c) is lawfully disclosed to the receiving party by a third party without restriction on disclosure; or

(d) is independently developed by the receiving party, which independent development can be shown by written evidence.

11.2 Subject to clause 11.4, each party shall hold the other's Confidential Information in confidence and not make the other's Confidential Information available to any third party, or use the other's Confidential Information for any purpose other than the implementation of this Agreement.

11.3 Each party shall take all reasonable steps to ensure that the other's Confidential Information to which it has access is not disclosed or distributed by its employees or agents in violation of the terms of this Agreement.

11.4 A party may disclose Confidential Information to the extent such Confidential Information is required to be disclosed by law, by any governmental or other regulatory authority or by a court or other authority of competent jurisdiction, provided that, to the extent it is legally permitted to do so, it gives the other party as much notice of such disclosure as possible and, where notice of disclosure is not prohibited and is given in accordance with this clause 11.4, it takes into account the reasonable requests of the other party in relation to the content of such disclosure.

11.5 The Coach acknowledges that details of the Services constitute Fitr Training's Confidential Information.

11.6 No party shall make, or permit any person to make, any public announcement concerning this Agreement without the prior written consent of the other parties (such consent not to be unreasonably withheld or delayed), except as required by law, any governmental or regulatory authority (including, without limitation, any relevant securities exchange), any court or other authority of competent jurisdiction.

11.7 The above provisions of this clause 11 shall survive termination of this Agreement, however arising.

12. Indemnity

12.1 The Coach shall defend, indemnify and hold harmless Fitr Training against claims, actions, proceedings, losses, damages, expenses and costs (including without limitation court costs and reasonable legal fees) arising out of or in connection with the Coach's use of the Services and/or Documentation and any breach of the warranty in clause 2.5, provided that:

(a) the Coach is given prompt notice of any such claim;

(b) Fitr Training provides reasonable co-operation to the Coach in the defence and settlement of such claim, at the Coach's expense; and

(c) the Coach is given sole authority to defend or settle the claim.

12.2 Fitr Training shall defend the Coach, its officers, directors and employees against any claim that the Coach's use of the Services or Documentation in accordance with this Agreement infringes any United Kingdom patent effective as of the Effective Date, copyright, trade mark, database right or right of confidentiality, and shall indemnify the Coach for any amounts awarded against the Coach in judgment or settlement of such claims, provided that:

(a) Fitr Training is given prompt notice of any such claim;

(b) the Coach provides reasonable co-operation to Fitr Training in the defence and settlement of such claim, at Fitr Training's expense; and

(c) Fitr Training is given sole authority to defend or settle the claim.

12.3 In the defence or settlement of any claim, Fitr Training may procure the right for the Coach to continue using the Services, replace or modify the Services so that they become non-infringing or, if such remedies are not reasonably available, terminate this Agreement on 2 Business Days' notice to the Coach without any additional liability or obligation to pay liquidated damages or other additional costs to the Coach.

12.4 In no event shall Fitr Training, its employees, agents and sub-contractors be liable to the Coach to the extent that the alleged infringement is based on:

(a) a modification of the Services or Documentation by anyone other than Fitr Training; or

(b) the Coach's use of the Services or Documentation in a manner contrary to the instructions given to the Coach by Fitr Training; or

(c) the Coach's use of the Services or Documentation after notice of the alleged or actual infringement from Fitr Training or any appropriate authority.

12.5 The foregoing and clause 13.3(b) state the Coach's sole and exclusive rights and remedies, and Fitr Training's (including Fitr Training's employees', agents' and sub-contractors') entire obligations and liability, for infringement of any patent, copyright, trade mark, database right or right of confidentiality.

13. Limitation of liability

13.1 Except as expressly and specifically provided in this Agreement:

(a) the Coach assumes sole responsibility for its use of the Services and the Documentation, and for conclusions drawn from such use. Fitr Training shall have no liability for any actions taken by Fitr Training at the Coach's direction;

(b) all warranties, representations, conditions and all other terms of any kind whatsoever implied by statute or common law are, to the fullest extent permitted by applicable law, excluded from this Agreement; and

(c) the Services and the Documentation are provided to the Coach on an "as is" basis.

13.2 Nothing in this Agreement excludes the liability of Fitr Training:

(a) for death or personal injury caused by Fitr Training's negligence; or

(b) for fraud or fraudulent misrepresentation.

13.3 Subject to clause 13.1 and clause 13.2:

(a) Fitr Training shall not be liable whether in tort (including for [negligence or] breach of statutory duty), contract, misrepresentation, restitution or otherwise for any loss of profits, loss of business, depletion of goodwill and/or similar losses or loss or corruption of data or information, or pure economic loss, or for any special, indirect or consequential loss, costs, damages, charges or expenses however arising under this Agreement; and

(b) Fitr Training's total aggregate liability in contract (including in respect of the indemnity at clause 12.2), tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the performance or contemplated performance of this Agreement shall be limited to the Fitr Training proportion of the total Fees during the 12 months immediately preceding the date on which the claim arose.

14. Term and termination

14.1 This Agreement shall, unless otherwise terminated as provided in this clause 14, commence on the Effective Date and shall continue for consecutive Billing Cycles until:

(a) either party gives to the other written notice to terminate with effect from the end of the current Billing Cycle; or

(b) otherwise terminated in accordance with the provisions of this Agreement.

14.2 Without affecting any other right or remedy available to it, either party may terminate this Agreement with immediate effect by giving written notice to the other party if:

(a) the other party commits a material breach of any other term of this Agreement which breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of 14 days after being notified in writing to do so;

(b) the other party repeatedly breaches any of the terms of this Agreement in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms of this Agreement;

(c) the other party suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986, as if the words "it is proved to the satisfaction of the court" did not appear in sections 123(1)(e) or 123(2) of the Insolvency Act 1986;

(d) the other party commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors other than for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party;

(e) a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of that other party other than for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party;

(f) an application is made to court, or an order is made, for the appointment of an administrator, or if a notice of intention to appoint an administrator is given or if an administrator is appointed, over the other party;

(g) the holder of a qualifying floating charge over the assets of that other party has become entitled to appoint or has appointed an administrative receiver;

(h) the other party (being an individual) is the subject of a bankruptcy petition, application or order;

(i) a person becomes entitled to appoint a receiver over the assets of the other party or a receiver is appointed over the assets of the other party;

(j) a creditor or encumbrancer of the other party attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of the other party's assets and such attachment or process is not discharged within 14 days;

(k) any event occurs, or proceeding is taken, with respect to the other party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 14.2(c) to clause 14.2(j) (inclusive);

(l) the other party suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business; or

(m) the other party (being an individual) dies or, by reason of illness or incapacity (whether mental or physical), is incapable of managing their own affairs or becomes a patient under any mental health legislation.

14.3 Fitr Training

(a) reserves the right, without liability to Coach, to immediately suspend any and all access to the Services if the Coach commits a material breach of this Agreement until such material breach is cured or this Agreement is terminated.

(b) shall be entitled to terminate this Agreement by written notice with immediate effect if the Coach:

(i) has committed a crime; or

(ii) has become involved in any situation or activity which:

(A) tends in the opinion of Fitr Training to have a negative effect on the reputation of Fitr Training or any aspect of its business;

(B) would expose Fitr Training or any aspect of its business to disrepute, scandal, ridicule or contempt, or would tend to shock, insult or offend the public in any territory in which Fitr Training's services are marketed;

(C) reflects unfavourably on the reputation of Fitr Training, its brands or services; or

(D) might affect the supply, successful sales and exploitation of Fitr Training's services.

Such conduct shall be deemed a material breach in terms of clause 14.2(a).

(c) Fitr Training's decision on all matters arising under this clause 14.3 shall be conclusive.

(d) Examples of acts or conduct considered to be prejudicial to the business of Fitr Training include without limitation:

(i) the posting or publishing on social media or elsewhere of any content that promotes bigotry, racism or discrimination based on race, gender, religion, nationality, disability, sexual orientation or age;

(ii) the expression of any political views in a context that could give rise to an association with Fitr Training's business;

(iii) the use of, trade in, or other association with, illegal drugs.

14.4 On termination of this Agreement by the Coach under clause 14.1(a) Fitr Training shall reduce the Coach's access to the Site to minimal access levels. Minimal access levels means that the Coach:

(a) will not be able to create new programs; or

(b) will not be able to sign up new Clients; but

(c) will be able to continue to manage existing Clients.

14.5 On termination of this Agreement by Fitr Training for any reason:

(a) all licences granted under this Agreement shall immediately terminate and the Coach shall immediately cease all use of the Services and/or the Documentation;

(b) each party shall return and make no further use of any equipment, property, Documentation and other items (and all copies of them) belonging to the other party;

(c) Fitr Training may destroy or otherwise dispose of any of the Coach Data in its possession unless Fitr Training receives, no later than ten days after the effective date of the termination of this Agreement, a written request for the delivery to the Coach of the then most recent back-up of the Coach Data. Fitr Training shall use reasonable commercial endeavours to deliver the back-up to the Coach within 30 days of its receipt of such a written request, provided that the Coach has, at that time, paid all fees and charges outstanding at and resulting from termination (whether or not due at the date of termination). The Coach shall pay all reasonable expenses incurred by Fitr Training in returning or disposing of Coach Data;

(d) all sums due to the Coach pursuant to clause 9 shall be paid on the next weekly payment date following termination; and

(e) any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination, including the right to claim damages in respect of any breach of the agreement which existed at or before the date of termination shall not be affected or prejudiced.

15. Force majeure

Fitr Training shall have no liability to the Coach under this Agreement if it is prevented from or delayed in performing its obligations under this Agreement, or from carrying on its business, by acts, events, omissions or accidents beyond its reasonable control, including, without limitation, strikes, lock-outs or other industrial disputes (whether involving the workforce of Fitr Training or any other party), failure of a utility service or transport or telecommunications network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, epidemic or pandemic, fire, flood, storm or default of suppliers or sub-contractors, provided that the Coach is notified of such an event and its expected duration.

16. Conflict

If there is an inconsistency between any of the provisions in the main body of this Agreement and the Schedules, the provisions in the main body of this Agreement shall prevail.

17. Variation

No variation of this Agreement shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

18. Waiver

No failure or delay by a party to exercise any right or remedy provided under this Agreement or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

19. Rights and remedies

Except as expressly provided in this Agreement, the rights and remedies provided under this Agreement are in addition to, and not exclusive of, any rights or remedies provided by law.

20. Severance

20.1 If any provision or part-provision of this Agreement is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of this Agreement.

20.2 If any provision or part-provision of this Agreement is deemed deleted under clause 20.1 the parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the intended commercial result of the original provision.

21. Entire agreement

21.1 This Agreement constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.

21.2 Each party acknowledges that in entering into this Agreement it does not rely on, and shall have no remedies in respect of, any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this Agreement.

21.3 Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in this Agreement.

21.4 Nothing in this clause shall limit or exclude any liability for fraud.

22. Assignment

22.1 The Coach shall not, without the prior written consent of Fitr Training, assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under this Agreement.

22.2 Fitr Training may at any time assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under this Agreement.

23. No partnership or agency

Nothing in this Agreement is intended to or shall operate to create a partnership between the parties, or authorise either party to act as agent for the other, and neither party shall have the authority to act in the name or on behalf of or otherwise to bind the other in any way (including, but not limited to, the making of any representation or warranty, the assumption of any obligation or liability and the exercise of any right or power).

24. Third party rights

This Agreement does not confer any rights on any person or party (other than the parties to this Agreement and, where applicable, their successors and permitted assigns) pursuant to the Contracts (Rights of Third Parties) Act 1999.

25. Notices

25.1 Any notice required to be given under this Agreement shall be in writing and shall be delivered by hand or sent by pre-paid first-class post or recorded delivery post to the other party at its address set out in this Agreement, or such other address as may have been notified by that party for such purposes, or sent by email to the other party's email address as set out on the Site (in the case of Fitr Training) or linked to the Coach's account on the Site or as set out in this Agreement.

25.2 A notice delivered by hand shall be deemed to have been received when delivered (or if delivery is not in business hours, at 9 am on the first business day following delivery). A correctly addressed notice sent by pre-paid first-class post or recorded delivery post shall be deemed to have been received at the time at which it would have been delivered in the normal course of post. A notice sent by email shall be deemed to have been received at the time of transmission (as shown by the timed printout obtained by the sender).

26. Governing law

This Agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales.

27. Jurisdiction

Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this Agreement or its subject matter or formation (including non-contractual disputes or claims).

SCHEDULE 1 | PROCESSING, PERSONAL DATA AND DATA SUBJECTS

1. Processing by Fitr Training

1.1 **Scope:**

To process personal data relating to the Coach or the Coach's personnel in connection with this Agreement

1.2 **Nature:**

Account creation

Payment processing

Messaging services

1.3 **Purpose of processing:**

The provision of the Services

1.4 **Duration of the processing:**

The term of the Agreement

2. Types of personal data

Name and contact details

3. Categories of data subject

Coaches or personnel engaged by the Coach

Last updated: 13/08/2020