

THE FIT LAB WEBSITE TERMS AND CONDITIONS

Thank you for visiting www.fitlab.com.au (the **Site**) (which may be available through other addresses or channels), which is owned by LSCH Group Pty Ltd ACN 612 175 612 trading as The Fit Lab (**TFL/we/us/our**).

These terms and conditions create a contract between TFL and the person who accesses or views this Site (**you**) (which includes, in the case of a minor (as per the age of majority in the jurisdiction in which they reside) (a **Minor**), their legal parent or guardian), which is comprised of these terms and our **Privacy Policy** (collectively the **Agreement**). Please read the Agreement carefully.

The Agreement applies to the access to and/or the use of the Site, the online store accessible at www.fitlab.com.au/shop-online (the **Store**) and the use of the information services and content provided through this Site. By accessing and using this Site and/or the Store, you are agreeing to comply with and be bound by the terms of the Agreement. If you do not agree to the terms of the Agreement, you must immediately cease using the Site and may not access or use the Site or the Store.

No information contained in the Site is intended to be used as medical advice and the Site is not intended to be used to diagnose, treat, cure or prevent any medical condition (including any mental health conditions) or for any therapeutic purposes. Before relying on the information on the Site, you should carefully evaluate the accuracy and relevance of the information for your purposes and obtain appropriate professional medical advice.

As with any physical activity, it is important that before beginning any fitness regime, you consult with your health care professional to ensure that you are mindful of your/the Minor's current health and any restrictions that are appropriate for you. You should immediately seek medical attention if there are any unanticipated changes to your physical condition at any time. You must consult a qualified medical professional if you have any questions concerning your medical condition or injury.

1. THE CONTENT

- 1.1 The '**Content**' is, collectively, physical training, exercise and nutrition programs and any services, goods, products, content, and features made available by us through the Site or the Store.
- 1.2 TFL grants to you, and you accept, a non-exclusive, non-transferable, limited licence for you to use the Content strictly in accordance with this Agreement.
- 1.3 The licence provided under this Agreement is personal to you and you must not re-sell, sub-license, rent, lease or otherwise distribute the Content. All other rights in respect of the Content is reserved to us.
- 1.4 You may only use the Content for personal, non-commercial purposes.
- 1.5 The Content is not comprehensive and is for general information purposes only. It does not take into account your specific needs, objectives or circumstances, and it is not advice. While we use reasonable attempts to ensure the accuracy and completeness of the Content, we make no representation or warranty in relation to it, to the maximum extent permitted by law.
- 1.6 To use our Site, the Store and/or the Content, you need compatible hardware, software (latest version recommended and sometimes required) and internet access (fees may apply). Our Site or Store's performance may be affected by these factors.
- 1.7 You acknowledge that the terms of agreement with your respective internet and/or mobile network provider (**Network Provider**) will continue to apply when using the Services. As a result, you may be charged by the Network Provider for access to network connection services for the duration of the connection while accessing the Site and/or the Store or any such third party charges as may arise. You accept responsibility for any such charges that arise. If you are not the bill payer for the mobile telephone or device being used to access the Site and/or the Store, you will be assumed to have received permission from the bill payer.
- 1.8 Your right to use the Site and/or the Store is subject to your ongoing compliance with all provisions of this Agreement.
- 1.9 If you are the legal parent or guardian of a Minor, you are responsible for and liable for ensuring that the Minor complies with all provisions of this Agreement, as if they were named as you in it.
- 1.10 You may be permitted to post, upload, publish, submit or transmit relevant information and content (**User Content**) on our Site. By making available any User Content on or through our Site, you grant to us a worldwide, irrevocable, perpetual, non-exclusive, transferable, royalty-free licence to use the User Content, with the right to use, view, copy, adapt, modify, distribute, license, sell, transfer, communicate, publicly display, publicly perform, transmit, stream, broadcast, access, or otherwise exploit such User Content on, through or by means of our Site.
- 1.11 You agree that you are solely responsible for all User Content that you make available on or through our Site. You represent and warrant that:
 - (1) you are either the sole and exclusive owner of all User Content or you have all rights, licences, consents and releases that are necessary to grant to us the rights in such User Content (as contemplated by these Terms); and
 - (2) neither the User Content nor the posting, uploading, publication, submission or transmission of the User Content or our use of the User Content on, through or by means of our Site will infringe, misappropriate or violate a third party's intellectual property rights, or rights of publicity or privacy, or result in the violation of any applicable law or regulation.

- 1.12 We do not endorse or approve, and are not responsible for, any User Content. We may, at any time (at our sole discretion), remove any User Content.
- 1.13 Our Site may contain links to websites operated by third parties. Unless expressly stated otherwise, we do not control, endorse or approve, and are not responsible for, the content on those websites. You should make your own investigations with respect to the suitability of those websites.
- 1.14 We may add to, alter, change, temporarily suspend or withdraw partially or completely any parts of the Site, the Store and/or the Content at any time without notice to you, in our sole discretion

2. THE FEES

- 2.1 You agree to pay the fees for the provision of the Content by TFL to you, as specified by us from time to time (the **Fees**).
- 2.2 All Fees exclude any applicable taxes (including goods and services tax), which will be payable in addition to the Fees where applicable, unless otherwise stated.
- 2.3 Orders placed through the Store are subject to acceptance by us. Acceptance (or rejection) of an order will be notified to you as part of the ordering procedure. Acceptance is always subject to payment first being made by you. For the removal of doubt, by placing an order, you make an offer to purchase the relevant product or service that is the subject of your order.
- 2.4 We expect that we will use a payment gateway or a similar service for most financial transactions. We are not able to access your credit card or other financial details and you agree that we will not be held liable for any loss you incur arising from your use of this payment method unless caused by our fraud or the fraud of our employees.
- 2.5 TFL may also use various billing service providers to collect the Fees. When using their services, you agree to their terms and conditions.

3. ADDITIONAL LIMITATIONS OF LIABILITY

- 3.1 The following limitations of liability apply subject to and in addition to the limitations of liability contained in the Terms and Conditions of Membership (if you are also a TFL member):
 - (1) you acknowledge and agree that physical training, exercise and nutrition programs involve an inherent risk of bodily harm, injury or illness (including death) and that in providing the Content, TFL will not be liable for monitoring or supervising your use of the Content and to this end, TFL accepts no responsibility or liability for any injury, illness or death that results directly or indirectly from the use or misuse of the Content by you or any other party, to the fullest extent permitted by law;
 - (2) you knowingly and voluntarily assume all risk of any bodily harm or injury (including death) which relates in any way to the provision of the Content;
 - (3) you acknowledge and agree that TFL will not be liable to you or any other persons for:
 - (a) any loss or damage of any kind that is directly or indirectly caused by or results from your wrongful, wilful or negligent act or omission; or
 - (b) any direct, incidental, special or consequential damages, including loss or profits or anticipated profits, even if notified of the possibility of that potential loss or damage;
 - (4) you release TFL from any liability or claims relating, but not limited to:
 - (a) any personal injury, illness or death caused to you or any other person; and
 - (b) any breach of your obligations;except to the extent arising from the wilful or negligent acts or omissions of TFL;
 - (5) TFL does not represent or guarantee that the Site, the Store or the Content will be free from loss, corruption, attack, viruses, interference, hacking, or other security intrusion, and you hereby release TFL from any liability relating thereto;
 - (6) you assume full responsibility for backing-up and/or otherwise protecting your data in the Site or the Store against loss, damage or destruction; and
 - (7) TFL is not responsible for data charges you may incur in connection with your use of the Site, the Store or the Content.
- 3.2 You acknowledge and agree that this Agreement's limitations of liability in clause 3.1 are essential to TFL and TFL would not have entered into this Agreement in their absence.
- 3.3 You indemnify TFL for:
 - (1) all losses and expenses we incur (including legal costs on an indemnity basis) we; and
 - (2) all liabilities we incur;directly or indirectly caused by, or resulting from any breach of this Agreement or from any wrongful, wilful or negligent act or omission by you.
- 3.4 Any representation, warranty, condition or undertaking that would be implied in this Agreement by legislation, common law, equity, trade, custom or usage is excluded to the fullest extent permitted by law.
- 3.5 Despite clause 3.3, nothing in this Agreement excludes, restricts or modifies any condition, warranty, right or remedy conferred on you by the *Competition and Consumer Act 2010* (Cth) or any other applicable law that cannot be excluded, restricted or modified by agreement.
- 3.6 To the fullest extent permitted by law, our liability for a breach of a non-excludable condition or warranty is limited to, at our option:
 - (1) the supply of the Content provided for under this Agreement; or
 - (2) the payment of the cost or having the content supplied again.

4. INTELLECTUAL PROPERTY

- 4.1 You agree that the Site, including but not limited to the Content, graphics, user interface, audio clips, video clips, editorial content, and the scripts and software used to implement the Site, the Store or the Content contain proprietary information and material that is owned by TFL and/or its licensors, and is protected by applicable intellectual property and other laws, including but not limited to copyright. You agree that you will not use such proprietary information or materials in any way whatsoever except for use of the Site, the Store or the Content for personal, non-commercial uses in compliance with this Agreement.
- 4.2 No portion of the Content may be reproduced in any form or by any means, except as expressly permitted by this Agreement. You agree not to modify, rent, loan, sell, or distribute the Content in any manner, and you shall not exploit the Content in any manner not expressly authorised. This clause does not modify, restrict or exclude any additional rights you may have under applicable laws that cannot be so modified, restricted or excluded.
- 4.3 The Fit Lab name and logo are registered trademarks of TFL in Australia. You are granted no right or license with respect to any of these trademarks.
- 4.4 If you believe that any Programs or Content available through the Site infringes the copyright claimed by you, please contact TFL.

5. GENERAL PROVISIONS

- 5.1 You agree to comply with all local, state, federal, and national laws, statutes, ordinances, and regulations that apply to your use of the Site, the Store and/or the Content. Your use of the Site, the Store and/or the Content may also be subject to other laws.
- 5.2 You hereby grant TFL the right to take steps TFL believes are reasonably necessary or appropriate to enforce and/or verify compliance with any part of this Agreement. You agree that TFL has the right, without liability to you, to disclose any data and/or information to law enforcement authorities, government officials, and/or a third party, as TFL believes is reasonably necessary or appropriate to enforce and/or verify compliance with any part of this Agreement (including but not limited to TFL's right to cooperate with any legal process relating to your use of the Site, the Store and/or the Content, and/or a third-party claim that your use of the Site, the Store and/or the Content is unlawful and/or infringes such third party's rights).
- 5.3 A party waives a right under this Agreement only if it does so in writing. We do not waive a right simply because we fail to exercise the right, we delay exercising the right or only exercise part of the right. A waiver of one breach of a term of this Agreement does not operate as a waiver of another breach of the same term or any other term.
- 5.4 If a provision in this Agreement is wholly or partly invalid or unenforceable in any jurisdiction, that provision or the part of the provision that is invalid or enforceable must, to that extent, and in that jurisdiction, be treated as deleted from this Agreement. This does not affect the validity or enforceability of the remaining provisions in that jurisdiction, or of the deleted provision in any other jurisdiction. If you are a qualified public educational or government institution and any part of this Agreement is invalid or unenforceable against you because of applicable local, national, state or federal law, then that portion shall be deemed invalid or unenforceable, as the case may be, and instead construed in a manner most consistent with applicable governing law.
- 5.5 We may assign or otherwise deal with the benefit of any contract made pursuant to this Agreement without your consent.
- 5.6 TFL may subcontract with one or more affiliates or third parties to provide any service required to be provided by TFL under this Agreement, provided that no such use of subcontractors shall relieve TFL of its obligations under this Agreement.
- 5.7 You may not assign your rights and obligations under this Agreement under any circumstances without first obtaining our written consent to do so. Any purported assignment not undertaken in accordance with this clause will be invalid.
- 5.8 All contracts made between us and you shall be governed by and construed in accordance with the laws of the State of Queensland. You agree to submit to the exclusive jurisdiction of the Queensland courts for all purposes of or in connection with such contracts.