

Last updated on December 22, 2020

## Terms and Conditions

These terms and conditions set out the basis upon which Athletes Unlimited Limited trading as Strength and Conditioning Education, a company registered in England and Wales with Company number, 07723337 and registered address 71 – 75 Shelton Street, Covent Garden, London, WC2H 9JQ, agree to provide certain training courses (the “Courses”) to you.

### 1. Interpretation

**The following definitions and rules of interpretation apply in these Conditions.**

#### 1.1 Definitions:

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

**Course Fee:** the charges payable by you for the Course specified in the Contract Details.

**Conditions:** these terms and conditions as amended from time to time in accordance with clause 13.4.

**Contract:** the contract between us for the delivery of the Course, made up of the Contract Details and these Conditions.

**Contract Details:** the form (whether online, paper or email confirmation) containing the details of your purchase from us.

**Course:** the educational course identified in the Contract Details, including any Events, online or in person training, one to one and group mentor sessions which make it up.

**Course Syllabus:** the description of the Course and any included Events in place from time to time, which is available on our website and/or sent to you at the start of the Contract.

**Customer (you, your):** the person or firm specified in the Contract Details.

**Deposit:** any part of the Course Fee which is identified in the Contract Details as being a deposit.

**Events:** any part of the Course delivered at a specified time or in a specified place, including practical workshops, mentoring sessions, exams and assessments, all of which may take place physically in person or online.

**Intellectual Property Rights:** patents, rights to inventions, copyright and related rights, moral rights, trade marks, business names and domain names, rights in get-up and trade dress, goodwill and the right to sue for passing off, rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets), and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

**Supplier (we, us, our):** Athletes Unlimited Limited trading as Strength and Conditioning Education, registered in England and Wales with company number 07723337 and registered address 71 – 75 Shelton Street, Covent Garden, London, WC2H 9JQ.

**Supplier IP:** means all Intellectual Property Rights subsisting in the Supplier Materials.

**Supplier Materials:** the Course Syllabus, Course content, and any materials, equipment, documents, presentations and other property provided in connection with the Course or otherwise by the Supplier,

1.2 Interpretation:

- (a) Any words following the terms **including, include, in particular, for example** or any similar expression, shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.
- (b) A reference to **writing** or **written** includes email.

**2. Basis of contract**

2.1 Payment of the Deposit or the Course Fee in accordance with clause 5 below constitutes an offer by you to enrol in the Course and enter into the Contract. Our acceptance of the offer will take place when you receive an email confirming your place on the Course or when we commence the provision of the Course, at which point the Contract will become effective.

2.2 We reserve the right to refuse enrolment in the Course if we believe that it will not be in the best interests of you or other participants or us for you to participate in the Course. Any Deposit or Course Fee paid will be refunded in full if we refuse enrolment prior to your commencement of the Course.

- 2.3 Any samples, drawings, descriptive matter or advertising we issue, and any descriptions or illustrations contained on our website or in our catalogues or brochures, are issued or published for the sole purpose of giving an approximate idea of the Course. They shall not form part of the Contract or have any contractual force.
- 2.4 These Conditions apply to the Contract to the exclusion of any other terms that you seek to impose or incorporate, or which are implied by law, trade custom, practice or course of dealing.
- 2.5 You will be subject to the Conditions (including policies and procedures) in force at the time that you enrol on the Course, unless any amendment to those policies or these Conditions is required by law or government or regulatory authority in which case the amended Conditions will apply to Courses which have been enrolled on or started.

### **3. Supply of Services**

- 3.1 We shall deliver the Course in accordance with the Course Syllabus in all material respects.
- 3.2 We will use reasonable endeavours to meet any performance dates specified in the Course Syllabus and the Contract Details, but any such dates shall be estimates only and time shall not be of the essence for the delivery of the Course.
- 3.3 We shall use reasonable endeavours to hold Events in accordance with the details originally specified. However, we reserve the right to cancel or postpone any Event or amend its date or venue if we decide such postponement, amendment or cancellation is reasonably necessary, including by changing an in-person Event to an online Event in accordance with clause 3.7 below. We shall have no liability for any costs or losses incurred as a result of such postponement, amendment or cancellation.
- 3.4 In the event of the postponement, amendment or cancellation of an Event in accordance with clause 3.6 or 3.7, we shall have no obligation to transfer you to an alternative occurrence of the Event, provide the content of the Event in any alternative manner, or offer you any credit or other refund.
- 3.5 In the event of the postponement, amendment or cancellation of any Event other than in accordance with clause 3.6 or 3.7, we shall use reasonable endeavours to transfer you to an alternative occurrence of the Event, taking into account your preference. However we are under no obligation to complete any such transfer.

We reserve the right to alternatively deliver the content of the Event via an online method or provide you with a credit towards a future course at our discretion.

- 3.6 We may move any Event to another venue within a 50 mile radius of the originally specified venue on giving you not less than 48 hours' notice.
- 3.7 Notwithstanding our rights pursuant to clause 13.1, we may change the date and/or time of any Event, or change any in-person Event to an online Event, provided that you are given at least:
  - (a) 24 hours' notice of the cancellation; and
  - (b) 72 hours' notice of the new date and time for the Event.
- 3.8 We reserve the right to amend the Course Syllabus or other content of the Course if necessary without advance notice to you and such changes will be effective immediately.
- 3.9 We warrant to you that the Course will be provided using reasonable care and skill.
- 3.10 If you have engaged with and enrolled in a Course through a third party, all details of the enrolment process will be held with that third party and we shall not be liable for any errors regarding the enrolment process. All queries regarding the enrolment process should be directed to the third party in question.

#### **4. Your obligations**

- 4.1 You shall:
  - (a) pay the Course Fee in accordance with clause 5;
  - (b) comply with the standard practices and procedures specified in the Course Syllabus;
  - (c) be respectful and professional to all staff, location hosts, coaches, other customers and their guests and/or families throughout the Course; and
  - (d) provide accurate, complete and correct information and instructions when requested by us, including proof of any qualifications required for enrolment on the Course.
- 4.2 You may be asked to leave any Event or venue should you be deemed rude, uncooperative, unprofessional, intoxicated or in possession of alcohol or any illegal substance. In such case, no fees of any kind will be refunded.
- 4.3 The Course must be completed within 12 months from the date on which the Contract becomes effective in accordance with clause 2.1, or the time specified on

the Course Syllabus, whichever is longer. We reserve the right to charge additional fees in respect of any element of the Course which remains to be completed beyond this period.

## **5. Charges and payment**

- 5.1 You must pay the Deposit, if applicable, at the time of submitting your application for the Course. The Deposit becomes non-refundable at the point you receive notification of your acceptance onto the Course.
- 5.2 The Course Fee (less any Deposit previously paid) shall be payable in accordance with the payment terms set out in the Contract Details.
- 5.3 The Course Fee includes:
- (a) access to the Course and any applicable Events;
  - (b) delivery of relevant Course materials to UK mainland addresses (subject to clause 5.5); and
  - (c) VAT.
- 5.4 The Course Fee does not include:
- (a) accommodation;
  - (b) delivery of relevant Course materials to non-UK mainland addresses;
  - (c) travel to and from any Event; or
  - (d) food and beverages at any Event.
- 5.5 If you are unavailable when Course materials are delivered to the address provided and they are not collected from the local depot an additional distribution fee may be charged if we are required to take receipt of, collect and/ or redeliver the materials.
- 5.6 If any payment is not received on the agreed date, we will notify you of the amount you owe. Should payment not be made within 15 days of notification, a £12 late payment charge will be added to the amount owing and you shall be sent a final demand for payment.
- 5.7 A £12 charge will be applied for any recalled card payments.
- 5.8 We reserve the right to prevent you from booking any exam or reassessment, withhold the release of exam results, suspend online access, delay the marking of course work, treat your enrolment as having been terminated, and/or withhold the

awarding of any certification while any sums owed by you are outstanding. No refund of any fees paid for the Courses will be made

- 5.9 We reserve the right to charge interest on late payments at a rate of 6% above the base rate from time to time of Barclays Bank. If you are a business, we additionally reserve the right to claim interest under the Late Payment of Commercial Debts (Interest) Act 1998.
- 5.10 This is not a credit agreement and as such is not covered by the Consumer Credit Act 1974.

## **6. Intellectual property rights**

- 6.1 All Supplier IP is and shall be owned by us.
- 6.2 You shall not reproduce, modify, copy or distribute or use for commercial purposes any of the Supplier Materials, except with our express written consent. Any other use of the Supplier Materials is strictly prohibited. You shall not (and shall not assist or facilitate any third party to) copy, reproduce, re-sell, transmit, publish, display, distribute, commercially exploit or create derivative works from the Supplier Materials.
- 6.3 You shall use all information contained and presented at any Event and the Supplier Materials only for the purposes of self-improvement.
- 6.4 You shall not record any Event or any part thereof.

## **7. Data protection**

We will collect and process your data in accordance with our Privacy Policy, which is available on our website.

## **8. Limitation of liability**

- 8.1 Our Courses are for educational and informational purposes only. We make no guarantees that you will achieve any specific results or make any financial gain from completing the Course, and offer no professional, legal, therapeutic, or financial advice. The Course cannot replace or substitute for the services of certified professionals in any field, including, but not limited to, financial, health, or legal matters. Any financial predictions, projections or similar content outlined in the Course are examples, opinions and illustrations, and thus should not be considered average earnings, exact earnings, or promises for actual or future performance. There can be no assurance that any prior successes, or past results, as to income earnings, can be used as an indication of your future success or

results. You are advised to take the advice of an accountant, lawyer or professional advisor, before acting on this or any information.

- 8.2 We do not guarantee that you will achieve any specific qualification as a result of attending the Course. The achievement of a qualification is reliant upon you passing any relevant exam.
- 8.3 We have obtained insurance cover in respect of our legal liability for individual claims. The limits and exclusions in this clause reflect the insurance cover we have been able to arrange and you are responsible for making your own arrangements for the insurance of any excess loss.
- 8.4 Nothing in this clause 8 shall limit your payment obligations under the Contract.
- 8.5 Nothing in the Contract limits any liability which cannot legally be limited, including but not limited to liability for:
- (a) death or personal injury caused by negligence; and
  - (b) fraud or fraudulent misrepresentation.
- 8.6 Subject to clause 8.4 and clause 8.5, we will not be liable to you under or in connection with the Contract, including liability in contract, tort (including negligence), misrepresentation, restitution or otherwise, for any:
- (a) loss of profits;
  - (b) loss of sales or business;
  - (c) loss of agreements or contracts;
  - (d) loss of anticipated savings;
  - (e) loss of use or corruption of software, data or information;
  - (f) loss of or damage to goodwill; and
  - (g) indirect or consequential loss.
- 8.7 Our total liability to you under or in connection with the Contract, including liability in contract, tort (including negligence), misrepresentation, restitution or otherwise, shall be limited to the greater of £20,000 or 300% of the total price paid by you for the Course.
- 8.8 We have given commitments as to compliance of the Course with relevant specifications in clause 3. In view of these commitments, the terms implied by sections 3, 4 and 5 of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from the Contract.

8.9 Unless you tell us that you intend to make a claim in respect of any event within the notice period, we shall have no liability for that event. The notice period shall start on the day on which you became, or ought reasonably to have become, aware of having grounds to make a claim in respect of the event and shall expire 6 months from that date. The notice must be in writing and must identify the event and the grounds for the claim in reasonable detail.

8.10 This clause 8 shall survive termination of the Contract.

**9. Cancellation and amendment**

9.1 You may request amendment to or exemption from any element of the Course by notifying us in writing or by email.

9.2 We may accept or reject any request for amendment or exemption in our absolute discretion.

9.3 If we agree to your request to transfer to an alternative course, any sums you have paid will be credited against the fee due for that alternative course.

9.4 If we agree to your request to cancel a course booking without enrolling on an alternative course, any amount of the Course Fee paid at the date of cancellation, less the Deposit, will be refunded.

9.5 The following administration charges apply to all cancellations, alterations or reassessments:

Failure to attend an exam or workshop	£150
Cancellation of practical assessment workshop	£150
Change to workshop attendance date	£150
Referral for reassessment	£150

9.6 Any relevant administration charges must be paid before your request for cancellation, alteration or reassessment will be accepted or processed.

9.7 Any refund will be made (at our election) either by cheque or as a refund on the original method of payment. Any applicable administration fees will be deducted from the amount refunded. Refunds will be processed as soon as reasonably practicable, and in any case, within 30 calendar days of the day on which notice of the cancellation was delivered to us.



9.8 In the event that we cancel an entire Course, you shall return all provided materials back to us in the condition in which they were originally delivered. A refund of all Course Fees paid to the date of the cancellation will be provided on satisfactory receipt of the course materials.

## **10. The Distance Selling Regulations**

10.1 If you are a consumer and make a booking via the our website or by telephone, you have a legal right to cancel the Contract under the Consumer Contracts (Information, Cancellation & Additional Charges) Regulations 2013 ('Distance Selling Regulations') during the cooling off period of 14 calendar days from date of purchase. This means that during the relevant period if you change your mind or for any other reason you decide you do not want to enrol on a course, you can notify us of your decision to cancel the Contract and receive a refund. Advice about your legal right to cancel the Contract under these regulations is available from your local Citizens' Advice Bureau or Trading Standards office. A cancellation form is available on request.

10.2 If you exercise your legal right to cancel under the Distance Selling Regulations, you will receive a full refund of the price you paid when booking and we will process the refund due to you as soon as possible and, in any case, within 30 calendar days of the day on which you gave us notice of cancellation.

10.3 Your legal right to cancel a Contract starts from the date when you purchase a course or other product/service from us – which is when the Contract between us is formed. You have a period of 14 calendar days in which you may cancel the booking, starting from the day after the day when the booking is made. If this period ends on public holiday then the period will be extended until the next working day.

10.4 If your course is due to start within the cancellation period then your legal right to cancel is as follows:

(a) If your course (online or practical workshop) has started and ended during the cancellation period then your legal right to cancel will not apply.

(b) If your course has started but is due to end after the cancellation period then your legal right to cancel still applies. However, you will have to pay a proportion of the course fee which we will base on the total price of the course the percentage of the course already delivered by the company, and the period of the course from the start date to the date of cancellation.

10.5 Online or partially online courses commence from the date that you receive your login details or receive the product. If you have been provided with access to our online resources you have received the product and therefore are fully liable for

the purchase price and no cooling off period will apply. Any practical component in addition to the online resources is considered optional and does not constitute a part of the course.

## **11. Termination**

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

- (a) the other party commits a material breach of any term of the Contract and (if such a breach is remediable) fails to remedy that breach within 14 days of that party being notified in writing to do so; or
- (b) the other party takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), applying to court for or obtaining a moratorium under Part A1 of the Insolvency Act 1986, being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business.

11.2 Without affecting any other right or remedy available to it, the Supplier may terminate the Contract, or suspend the Contract, with immediate effect by giving written notice to the Customer if:

- (a) the Customer fails to pay any amount due under the Contract on the due date for payment, and remains in default for 14 days after the Supplier making demand for such payment; or
- (b) the Customer repeatedly breaches any term of the Contract in a manner which is inconsistent with it intending to comply with the spirit or word of the Contract.

## **12. Consequences of termination**

12.1 If we terminate the Contract in accordance with clause 11:

- (a) we shall be entitled to retain all Course Fees you have already paid;
- (b) the full balance of the Course Fee will become immediately payable; and
- (c) you shall return all of the Supplier Materials.

12.2 Termination of the Contract shall not affect 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 Contract which existed at or before the date of termination.

12.3 Any provision of the Contract that expressly or by implication is intended to come into or continue in force on or after termination of the Contract shall remain in full force and effect.

12.4 You agree to indemnify us for all reasonable costs we incur in the enforcement of our rights under the Contract.

### **13. General**

#### **13.1 Force majeure.**

(a) Neither party shall be in breach of the Contract nor liable for delay in performing, or failure to perform, any of its obligations under the Contract if such delay or failure result from events, circumstances or causes beyond its reasonable control, including:

- (i) acts of God, flood, drought, earthquake or other natural disaster;
- (ii) epidemic or pandemic;
- (iii) terrorist attack, civil war, civil commotion or riots, war, threat of or preparation for war, armed conflict, imposition of sanctions, embargo, or breaking off of diplomatic relations;
- (iv) nuclear, chemical or biological contamination or sonic boom;
- (v) any law or any action taken by a government or public authority;
- (vi) collapse of buildings, fire, explosion or accident; and
- (vii) interruption or failure of utility service,

**(Force Majeure Event).**

(b) If any part of the Course or an Event is delayed or cancelled due to a Force Majeure Event, the Supplier shall be entitled to delay or reschedule the Course or Event for a date falling after the conclusion of the Force Majeure Event, and shall be entitled to take reasonable steps to change the format of the Course or Event (including changing it to an online or pre-recorded format).

(c) If the Force Majeure Event prevents, hinders or delays the performance of our obligations for a continuous period of more than six months, either party may terminate this agreement by giving two weeks' written notice to the other party.

#### **13.2 Assignment and other dealings.**

- (a) We may at any time assign, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any or all of our rights and obligations under the Contract.
- (b) You shall not assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any of your rights and obligations under the Contract. This includes transferring your Course booking to another person.

**13.3 Entire agreement.**

- (a) The Contract 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.
- (b) Each party acknowledges that in entering into the Contract 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 the Contract. Each party agrees that it shall have no claim for innocent or negligent misrepresentation based on any statement in the Contract.
- (c) Nothing in this clause shall limit or exclude any liability for fraud.

**13.4 Variation.** We reserve the right to update and modify these terms and conditions without advance notice to you and such changes will be effective immediately when posted on this website and will govern your continued use of the website and the Courses.

**13.5 Waiver.** A waiver of any right or remedy under the Contract or by law is only effective if given in writing and shall not be deemed a waiver of any subsequent right or remedy. A failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall not constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict any further exercise of that or any other right or remedy. No single or partial exercise of any right or remedy provided under the Contract or by law shall prevent or restrict the further exercise of that or any other right or remedy.

**13.6 Severance.** If any provision or part-provision of the Contract 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. If any provision or part-provision of this Contract deleted under this clause 13.6 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.

### 13.7 Notices.

- (a) Any notice or other communication given to a party under or in connection with the Contract shall be in writing and shall be delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered office (if a company) or its principal place of business (in any other case); or sent by email to the address specified in the Order Form.
- (b) Any notice or communication shall be deemed to have been received:
  - (i) if delivered by hand, at the time the notice is left at the proper address;
  - (ii) if sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the second Business Day after posting; or
  - (iii) if sent by email at the time of transmission, or, if this time falls outside business hours in the place of receipt, when business hours resume. In this clause 13.7(b)(iii), business hours means 9.00am to 5.00pm Monday to Friday on a day that is not a public holiday in the place of receipt.
- (c) This clause 13.7 does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any other method of dispute resolution.

13.8 **Third party rights.** Unless it expressly states otherwise, the Contract does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract.

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

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