

Terms and Conditions for the Supply of Services

I am so pleased you have decided to use my services or resources - please read the following important terms and conditions before you commit to using them.

This contract sets out:

- your legal rights and responsibilities;
- my legal rights and responsibilities; and
- certain key information required by law.

The intention is that it will bring clarity to our relationship, protect both of us and take care of the business side of things. Please let me know if there are any clauses that you do not understand or that contradict your understanding of my services.

In this contract:

‘I’, ‘me’ or ‘my’ means Emma Bray Pilates/HPY Life

‘You’ or ‘your’ means the person buying or using my services and resources.

If you would like to speak to me about any aspect of this contract, please contact me by e-mail at hello@hpylife.co.uk

BACKGROUND

I am a sole trader and my trading address is 34 Charles St, Tring, HERTS, HP23 6BD

I provide online and in person Pilates, HIIT, Yoga, nutrition and counselling services (‘services’) and you and I wish to enter into this agreement to set out the terms and conditions that will apply in respect of the services to be provided by me to you.

1. Introduction

- 1.1. If you sign up for my services you agree to be legally bound by this contract.
- 1.2. If you use any of my free resources that I may offer from time to time you also agree to be legally bound by this contract as appropriate, excluding the clauses relating to payment and consumer rights legislation.
- 1.3. When signing up for my services or using any resources you also agree to be legally bound by:
 - 1.3.1. my website terms of use and privacy policy;
 - 1.3.2. extra terms which may add to, or replace, some of this contract, for example any specific written contract between us;
 - 1.3.3. any specific terms which apply to my services, for example programme or service descriptions which may be set out on the webpage for that programme or in email correspondence between us (‘service description’).

All these documents form part of this contract as though set out in full here.

2. Signing up for my services

- 2.1. Certain sections of this contract only apply to you and me if you are a 'consumer', that is if you are an individual acting for purposes which are wholly or mainly outside your business or profession. By law, the Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013 and Consumer Rights Act 2015 say that we must give you certain key information before a legally binding contract between you and us is made (see the summary box below). We shall give you this information in a clear and understandable way in the main body of this contract together with the relevant services description, including any services description agreed between us in the future .

Summary of some of your key rights:

The Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013 say that in most cases, you can cancel within 14 days. If you agree the services will start within this time, you will be charged for what you've used. See clause 6 below for full details.

The Consumer Rights Act 2015 says:

- you can ask us to repeat or fix the services if they are not carried out with reasonable care and skill, or get some money back if we can't fix them
- if a price hasn't been agreed upfront, what you're asked to pay must be reasonable
- if a time hasn't been agreed upfront, they must be carried out within a reasonable time

We shall give you information on:

the main characteristics of the services you are buying

who we are, where we are based and how you can contact us

the price of the services

the arrangements for payment, carrying out the services and the time by which we shall carry out the services

how to exercise your right to cancel the contract in the cooling off period if you are a consumer (where appropriate)

our complaint handling policy

This is a summary of some of your key rights. For detailed information from Citizens Advice please visit www.citizensadvice.org.uk or call 03454 04 05 06.

- 2.2. Below, I set out how a legally binding contract to buy services between you and me is made:

- 2.2.1. You place your order at the end of the checkout process by [clicking on the payment link on my site, by transferring payment to my bank account or by using the payment link on the website. Placing your order and making payment does not, however, mean that your order has been accepted. A confirmation email will be send.
- 2.2.2. Any quotation given by me before you place an order for services is not a legally binding offer by me to supply such services. Any prices set out in a quotation remain valid for [14] days.
- 2.2.3. When you decide to place an order for services with me, this is when you make a legal offer to buy such services from me.
- 2.2.4. I may contact you to say that I do not accept your order, for example if I do not think my services are right for you or there has been a mistake in the pricing or description of the services, or my circumstances have changed since I gave you the quotation for the services.

2.2.5. I shall only accept your order when I confirm this to you by sending you a confirmation email or start to provide the services, whichever happens earlier. At this point:

- (a) a legally binding contract will be in place between you and me, and
- (b) I shall start to carry out the services as set out in the relevant programme or services description.

2.3. The details of the services to be provided will be set out in the statement of services.

2.4. Each statement of services is a separate contract incorporating the terms of this agreement.

3. Carrying out the services

3.1. If you are a consumer you have protection under consumer rights legislation, including that the services must be carried out with reasonable care and skill.

3.2. We shall use reasonable endeavours to carry out the services within the timescales specified in a statement of services but time of performance is not of the essence of this contract. This means where we miss a timescale agreed with you, as long as we have used reasonable endeavours to meet the timescale, this will not entitle you to terminate the contract with us or ask for a refund or any form of compensation. If we have not agreed a specific timeframe with you we shall supply the services within a reasonable period of time.

3.3. All sessions (including rearranged sessions) must be taken within the timeframe specified in the statement of services or they will expire.

3.4. You can rearrange any two sessions during a programme course providing you give us at least 48 hours' notice. If you give us less than 48 hours' notice, fail to turn up for a session or have already rearranged 2 sessions in a programme course, you will be deemed to have taken the session and you will not be able to reschedule it or entitled to any compensation for missing it.

3.5. In order to avoid confusion and the possibility of missed or delayed communications, our main forms of communication are limited to emails and pre-arranged telephone calls. Although we may respond to other forms of communication, we can only guarantee a timely response to these forms of communication.

3.6. Sessions usually take place remotely via zoom or any other means of communication agreed with you in advance. There may be an additional charge for face to face meetings.

3.7. Where a session or event is due to take place in person, I reserve the right to move that session or event online where circumstances make it necessary or preferable to do so.

3.8. Please note that I may record our calls for training purposes and administration purposes and by entering into this contract with me you consent to the recording of our calls for these purposes.

3.9. Our carrying out of the services might be affected by events beyond our reasonable control. If so, there might be a delay before we can restart the services, having made reasonable efforts to limit the effect of any of those events and having kept you informed of the circumstances. We shall try to restart the services as soon as those events have been fixed. Examples of events which might be beyond our reasonable control include **pandemics, epidemics, any law or action taken by a government or public authority**, internet failure or other IT problems, if one of our team is ill or if you change the scope of the services you require from us.

3.10. To the maximum extent permitted by law, we exclude any and all implied warranties in respect of the services, except as expressly set out in this agreement.

4. Your responsibilities

- 4.1. You will pay the price for the services as set out in the relevant statement of services.
- 4.2. You will provide us promptly with such information and assistance (and ensure that any information is complete and accurate) as we reasonably need to provide the services.
- 4.3. If you are in breach of this contract, we reserve the right to suspend or curtail the services as we see fit.
- 4.4. You agree:
 - 4.4.1. to obtain and maintain all necessary licences and consents and comply with all relevant legislation in relation to the receipt by you of the services; and
 - 4.4.2. to ensure that you have the right to share any information or materials with us, including any Intellectual Property Rights.
- 4.5. If the performance of our obligations under these terms is prevented or delayed by any of your acts or omissions, or subcontractors, we shall not be liable for any costs or losses incurred by you that arise directly or indirectly from such prevention or delay.
- 4.6. You warrant that you have the right to disclose the confidential information and any materials to us and to authorise us to use them for the purpose of providing the services.
- 4.7. The fees are non-refundable except for:
 1. if you are a consumer, your right to a 'cooling off' period, as described in clause 7 below;
 2. where I cancel a programme (other than under 11.3 below) you are entitled to a partial refund for sessions which you have paid for in advance and which you have not received.
 3. In all other circumstances I am not able to refund to you any of the payments you have made, and you remain liable for the whole price of the [programme] [services] even where you do not complete your sessions with me, as;
 - (a) payment is for the programme as a whole, not individual sessions; and
 - (b) This policy is also a reflection of the amount of preparation I need to put into the programme to make it most effective for you and the amount of time I shall dedicate and set aside for preparing for and attending our sessions together. This approach also helps you with your own accountability and commitment to improving your life through my coaching programme.

5. Prices and payment

- 5.1. All prices quoted are inclusive of VAT.
- 5.2. The price for the services is set out in the relevant statement of services.
- 5.3. I require full payment in advance in order to provide the services.
- 5.4. I shall send you an invoice in respect of my fees monthly on completion of the services and my invoices are payable within 30 days.
- 5.5. Our refund policy is as follows:
 1. if you are a consumer, you have the right to a refund during the 'cooling off' period, as described below;

2. where we cancel a programme (other than under 11.3 below) you are entitled to a partial refund for services which you have paid for in advance and which you have not received.
3. where you wish to cancel this contract and you give us [one month's] notice in writing, we shall give you a partial refund for services which you have paid for in advance and which you have not received, but we shall deduct reasonable compensation for the net costs we shall incur as a result of your ending the contract.
4. In view of our clear no-refund policy, we do not tolerate any type of chargeback threat or actual chargeback from your credit or debit card company. In the event that a chargeback is placed on a purchase or we receive a chargeback threat during or after your purchase, without you seeking repayment from us first: you shall be in breach of this contract; you agree that you will owe us first the sum charged to us by our merchant service provider and secondly a sum based on time spent at £100 per hour in dealing with your breach; and we reserve the right to report the incident to credit reporting agencies or to any other entity for inclusion in any chargeback database or for listing as non-payment on your account which could have a negative impact on your credit rating.
5. If any of your payments are not paid on the due date we may suspend services until payment has been made in full [and we may charge interest on any balance outstanding at the rate of 4 percentage points a year above Co-Operative base rate].
6. We shall ensure that a record is kept of the amount of time spent on the services.
7. We shall give you written notice at least [28] days in advance of any increase in our fees.
If the:
increase is not acceptable to you, you may, within [10] days of the date of the notice, terminate this
contract by giving written notice to us. In these circumstances the services will cease 28 days after the original notice of the price increase.
8. We shall be entitled to charge to you any sums reasonably incurred by us in recovering outstanding sums from you including professional and collection agency fees.}

6. Cooling off period for consumers

- 6.1. If you are a consumer, you have the right to cancel this contract within 14 days of signing up without giving any reason and If you agree the services will start within this time, you will be charged for what you've used.
- 6.2. The cancellation period will expire 14 days after the date of the contract.
- 6.3. **However, if you confirm to me that you wish me to start to provide the services within the 14 day cooling off period, then at this point my refund policy set out in clause 5.4 will apply and if you subsequently exercise your right to cancel during the 14 day cooling-off period you will have to pay my reasonable costs of services provided within that time. You confirm you wish me to start to provide the services within the 14 day cooling off period by doing any of the following during that time: making a booking a with me for which the allocated date and time will then, also as a service, be reserved for you to the exclusion of all others; or accessing or downloading any digital resources I make available to you; or joining any private social media group associated with my services; or accessing any other supporting materials made available to you. If you cancel this contract in accordance with the cooling off period in clause 6.1, we shall reimburse to you all payments received from you promptly and using the same means of payment as you used for the initial transaction,**

unless we have expressly agreed otherwise. However, this will only be the case if you have not confirmed to me you wish me to provide the services for which you will have to pay my reasonable costs.

7. Intellectual property

- 7.1. In this agreement, 'Intellectual Property Rights' means patents, rights to inventions, copyright and related rights, trade marks, business names and domain names, rights in get-up, goodwill and the right to sue for passing off, rights in designs, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how), 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 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.
- 7.2. In this clause 'Deliverables' means any bespoke documents or other materials produced by us for you and to be supplied to you as part of the services as set out in a statement of services.
- 7.3. If we provide you with any materials [other than the Deliverables] during the services, whether digital or printed, any Intellectual Property Rights in those materials belongs to us and unless we agree otherwise you can only use those materials for your own personal use to obtain the benefit of our services. You may not use such materials for any other purposes and you may not share them with third parties.
- 7.4. Provided we have received payment in full for our fees, we shall grant you an exclusive, a perpetual royalty free licence to use the Deliverables for your own personal use in order to enjoy the benefit of our services under the terms of this agreement.

8. Confidential Information

- 8.1. All information shared by you on a one to one basis will be kept strictly confidential, except when releasing such information is required by law and/or where I consider it necessary to do so because of concerns of risk to yourself or others, or to assist the prevention or detection of a crime. Such circumstances may include suicide, child sexual or general abuse or neglect, kidnapping, murder, rape, treason or terrorism.
- 8.2. Where you participate in any group sessions, you agree to keep strictly confidential any information shared by participants in those group sessions and not to share it with any third parties. You will not use the confidential information of any participant of a group session for your own benefit except with the explicit consent of that participant.
- 8.3. The obligations in clauses 8.1 and 8.2 will not apply to information which:
 - 8.3.1. has ceased to be confidential through no fault of either party;
 - 8.3.2. was already in the possession of the recipient before being disclosed by the other party; or
 - 8.3.3. has been lawfully received from a third party who did not acquire it in confidence.
- 8.4. You will not use any Confidential Information for profit or for your own benefit in any way.
- 8.5. Your and our confidentiality obligations under this clause will continue after termination of this agreement.

9. Personal Data and Data Processing

- 9.1. We shall use the personal information you give to us to:
 - 9.1.1. provide the services;

- 9.1.2. process your payment for the services; and
- 9.1.3. inform you about any similar products and services that we provide (though you may stop receiving this information at any time by contacting us).
- 9.2. We shall not give your personal information to any third party unless you agree to it.
- 9.3. For full details, read our privacy notice [www.hpylife.co.uk]

10. Resolving problems and faulty services

- 10.1. In the unlikely event that there is a problem with the services, please contact us as soon as possible and give us a reasonable opportunity to sort out any problems with you and reach a positive outcome.
- 10.2. A summary of your legal rights under the Consumer Rights Act 2015 (also known as 'statutory rights'), are set out at the top of this contract. For more detailed information on your rights and what you should expect from suppliers of services, you can find out more from Citizens Advice on their website www.citizensadvice.uk or call them on 03454 04 05 06.
- 10.3. Nothing in this contract affects your legal rights under the Consumer Rights Act 2015. You may also have other rights under common law.
- 10.4. Please contact us using the contact details at the top of this contract if the services we supply are faulty and you wish to discuss with us the options open to you.
- 10.5. The terms of this agreement will apply to any re-performed services.

11. End of the contract

- 11.1. If a services description specifies a length of time for services to be provided, then subject to clause 11.3 below, the services will terminate at the end of that timeframe.
- 11.2. If we provide services to you on an ongoing basis and the relevant statement of services does not specify a timeframe then either you or we may terminate the services by one month's written notice to each other.
- 11.3. Either you or we may terminate the services and this agreement immediately if:
 - 11.3.1. the other party fails to pay any amount due under this agreement on the due date for payment and remains in default not less than 14 days after being notified to make such payment;
 - 11.3.2. the other party commits any other material breach of this agreement and, in the case of a breach capable of being resolved, the breach is not resolved within 30 days of a written request to do so. The written request must expressly refer to this clause and state that the contract for services and this agreement will be terminated if the breach is not resolved; or
 - 11.3.3. the other party commits or threatens to commit or is threatened with any act of insolvency under the Insolvency Act 1986.

For the purposes of this clause, any breach by you of the rules governing your participation in my Facebook Group or any other Group hosted by me on another social media platform, constitutes a material of this contract which is not capable of being resolved.

If I decide in my absolute discretion that we are not a good fit for each other, I may terminate this contract immediately on notice, in which case I shall give you a partial refund for any elements of the services which you have paid for in advance and which you have not received.

- 11.4. If this agreement is ended it will not affect our right to receive any money which you owe to us under it and it will not operate to affect any provisions that expressly or by implication survive termination.

12. Limit on our responsibility to you

12.1. Except for any legal responsibility that we cannot exclude in law (such as for death or personal injury **caused by negligence**), we are not legally responsible for any:

12.1.1. losses that:

- (a) were not foreseeable to you and us when the contract was formed;
- (b) were not caused by any breach of these terms on our part; and

12.1.2. business losses, including loss of business, **business interruption**, loss of profits, loss of management time and loss of business opportunity.

12.2. Our total liability to you is limited to the amount of fees paid by you for the services.

12.3. This limitation on liability is an integral part of the commercial bargain between you and us and was a controlling factor in the setting of the fees payable to us under these terms.

13. Disputes

13.1. We shall try to resolve any disputes with you quickly and efficiently.

13.2. If we cannot resolve a dispute using our internal complaint handling procedure and either of us want to take court proceedings, the courts of England and Wales will have exclusive jurisdiction in relation to any contract entered into pursuant to this agreement.

13.3. The laws of England and Wales will apply to any contract entered into pursuant to this agreement.

14. General

14.1. **This is our entire agreement with you.** This agreement constitutes the entire agreement between us in relation to your purchase. You acknowledge that you have not relied on any statement, promise, representation, assurance or warranty made or given by or on behalf of us which is not set out in this agreement and that you shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in this agreement.

14.2. **Amending the agreement.** No variation of this agreement shall be valid or effective unless it is in writing and is agreed to by us.