

## FITNESS AND COACHING – TERMS OF USE

### Legal Agreement

This terms of use agreement (the “**Agreement**”) is a legal agreement that governs the access and use of Fitness and Coaching Services (“**Services**” defined more particularly below), provided by Jennifer Spreckley operating personally, or as Kingsway Pilates (“**we**”, “**us**”, “**our**”), by individuals such as yourself (“**you**”, “**your**”, or the “**User**”) via your use of our **Website** (*www.kingswaypilates.com*).

Users may also register with the clinic management platform to which we subscribe, the Jane App (the “**App**”), which is a communication platform that enables Users to book appointments and exchange communications with us via any one or more of text messaging, electronic mail and videoconferencing.

Users may create a **User Account** through the App; your User Account will provide you with access to the App or other communication platform that enables Users to book appointments and exchange communications with us via text messaging, electronic mail or videoconferencing.

This Agreement governs your access and use of any one or more of our Website, App, and User Account that you create and maintain and use, and your use of all materials displayed or made available through our Website, App, or User Account (or some combination of the three) including, without limitation, text, electronic mail, images, photographs, illustrations, audio and video clips, computer software or applications (including but not limited to Zoom, for example), and code on the Website or the App (“**Content**”).

**By accessing and using one or more of our Website, App or User Account, you are indicating that you agree to be bound by the terms and conditions of this Agreement. This Agreement includes:**

- these terms of use,
- [our privacy policy](#),
- [our electronic communication policy and consent](#) and
- [our assumption of risk, waiver and release](#).

We may revise this Agreement at any time with reasonable notice to you. Your use of any one or more of the Website, App or User Account after such changes are made available to you will indicate your acceptance of the revised terms of this Agreement.

If you do not accept the terms and conditions of this Agreement you must not access or use any one or more of the Website, the App or the User Account.

**Services Offered** We offer the following coaching and fitness services, both internet-based, and where available in-person, and these comprise the Services:

- fitness instruction
- coaching and consultation
- Pilates
- restorative exercise

Using one or more of the Website, App and User Account allows you to:

- **access and receive Services interactively and in real-time** using live chat (such as messaging), telephone or videoconferencing technology or another electronic communication method identified and described in the Fitness and Coaching [Electronic Communication Policy and Consent](#)
- **schedule real-time Services; scheduling may occur via the App, the User Account or the Website, at the User's discretion and may include the use of electronic mail (e-mail).** For more information see our [Electronic Communication Policy and Consent](#)
- consult with us through the App's messaging services ("**Messaging**"). We may message you routinely to provide support and adjust your goals. As the User, you are free to decline use of Messaging however the functionality of Messaging cannot be disabled. For more information see our [Electronic Communication Policy and Consent](#)
- Collaborate with us to **set goals and track your progress.** We may contact you via Messaging to track or readjust your goals on a daily or other routine basis, unless you decline Messaging. For more information see our [Electronic Communication Policy and Consent](#)
- **Access and receive pre-recorded Services**, such as watching and following a pre-recorded fitness video, or watching a seminar or monologue provided on the Website or via the App
- Access and receive in-person Services, if available in your locale.

**Services and Messaging hours** are offered at our discretion and are subject to change.

You are not eligible to receive the Services unless you review and complete the Fitness and Coaching [Electronic Communication Policy and Consent](#) and the Fitness and Coaching [Assumption of Risk, Waiver and Release](#).

### **User Account**

**Registration.** To use certain features, you may be asked to create a User Account, on the Website or in the App, consisting of an email address and a password. When you register a User Account, you agree to:

- a) provide true, accurate, current, and complete information, and
- b) maintain and promptly update the information to ensure it remains true, accurate, current, and complete.

If we have reasonable grounds to suspect that the information you provide to us via the Website or App, or the User Account, is untrue, inaccurate, not current or incomplete, we have

the right to suspend or terminate your User Account and your access to all or part of the App and Website. Our use of any personally identifying information you provide as part of the registration process, through the Website, User Account or the App, is governed by the terms of our [Privacy Policy](#) (the “**Privacy Policy**”). We will not provide your email address or password to any third-party.

Unless otherwise permitted by us in writing, you may only possess one User Account.

**Email Address and Passwords.** You are responsible for maintaining the confidentiality of the password you use in association with your User Account and App. You are also responsible for all activities that occur under your email address and password. If we have reasonable grounds to suspect that you are sharing your email address or password with anyone, we will have the right to suspend or terminate your User Account and your access to all or part of the App.

**MEDICAL ADVICE AND MEDICAL EMERGENCY DO NOT USE ANY ONE OR MORE OF OUR WEBSITE, APP OR USER ACCOUNT, OR THE SERVICES, FOR MEDICAL EMERGENCIES AND DO NOT ATTEMPT SELF-TREATMENT BASED ON ANYTHING YOU HAVE SEEN OR READ ON THE WEBSITE OR APP. IF YOU HAVE A MEDICAL EMERGENCY DIAL 911, YOUR LOCAL EMERGENCY ACCESS NUMBER, or VISIT YOUR NEAREST HOSPITAL’S EMERGENCY DEPARTMENT IMMEDIATELY.**

Always seek the advice of a physician or other qualified health care provider practicing in your jurisdiction concerning any questions you may have regarding any medical conditions or any information you obtain from your use of our Website or App or Content or from your use of our Services. **Always consult with your physician or other qualified primary health care provider before beginning a new fitness or wellness consultation program.**

**Misuse of Services** We have sole discretion to refuse or to discontinue the provision of Services to any User at any time, including for actual or potential misuse of the Services by the User or a person with whom the User has shared his or her User Account or password, without authorization from us.

**Privacy and Personal Information** The collection, use, disclosure, retention, destruction, and disposal of Personal Information collected by us through our any one or more of our Website, App and User Account is governed by our [Privacy Policy](#). By agreeing to the terms and conditions of this Agreement, you agree to the terms of our [Privacy Policy](#).

**Copyright** The Content is copyrighted and is owned by us, our licensors, or the provider of the Content, as the case may be. Except as granted in the limited licences herein, any use, modification, transmission, distribution, republication, or other exploitation of the Website, User Account, App, or Content, whether in whole or in part, is prohibited without our express prior written consent.

**Limited Licence** Subject to the terms and conditions of this Agreement, you are hereby granted a limited, non-transferable, and non-exclusive license to access, view, and use the Website, User Account, App, and Content, including any of your own personal information for your personal, non-commercial use. Access to the Website, User Account, App, and Content for any other

purpose is prohibited. Any additional requirements governing your use of any Content that may be set out in the Website, User Account, or App are binding upon you. In the event of a conflict between the terms of a licence governing particular Content or the App, and this Agreement, the terms of the specific licence will govern.

**Software Licence** All software embedded in or located on or at the Website, User Account, Content or App, including, without limitation, all computer code of all types and all files and images contained in or generated by such software (collectively, the “**Software**”) is protected by copyright and may be protected by other rights. All Software is owned by us, our licensors, or the party accredited with ownership of the Software. You are hereby granted the right to access and use the Software embedded and integrated into the Website, User Account, Content and App, subject to:

- a) the terms and conditions of this Agreement; and
- b) any additional conditions which may be imposed on your access and use of the licensor’s Software, including any condition imposed by the licensor of such Software.

If the Website, User Account, App, or Content provides Software for download, unless otherwise specified, you are hereby granted, subject to the terms of this Agreement and to any other specific terms and conditions that may apply to your downloading and use of such Software, a personal, non-transferable, non-exclusive license to:

- a) install and run one copy of the Software in object code format for your personal, non-commercial use; and
- b) reproduce the Software only as reasonably required to install, run, and make reasonable backup copies to the extent permitted by law.

Except to the extent expressly permitted in this Agreement, you may not:

- a) use, reproduce, modify, adapt, translate, upload, download, or transmit the Software in whole or in part;
- b) sell, rent, lease, license, transfer, or otherwise provide access to the Software;
- c) alter, remove, or cover any trade-marks or proprietary notices, including from the Software;
- d) insert or attempt to insert any malicious code, virus, lock or computer process designed to impair the function of the Website or App; or
- e) decompile, disassemble, decrypt, extract, or reverse engineer the Software or assist others in doing so.

Other than the limited licence granted herein, nothing contained in the Website, User Account, App, or Content shall be construed as granting you any right, title, interest, or other license in or to any Software embedded or integrated into the Website, User Account, App, or Content or made available for download from the Website, User Account, App, or Content, including, but not limited to, any intellectual property rights in the Software.

All Software embedded or integrated into the Website, User Account, App, or Content is provided “as is”, without warranties of any kind, either expressed or implied, including, without limitations, any warranty that the Software:

- a) is of merchantable quality and is fit for any particular purpose;
- b) will conform with any specifications relating to the Software;
- c) will be free from material defects;
- d) contains no computer viruses or other contaminants;
- e) shall process date and time-related data without causing any processing interruptions, abnormal termination, or process or manipulate any time-related data.

**Fees and Payment** Our Services are provided for a fee. Fees are payable in advance.

Details about applicable fees for the Services can be found on our [Fees](#) page (the “Fees”). Our use of the information you provide when paying the Fees is governed by our [Privacy Policy](#).

Users will be required to pay via etransfer or cheque only. All fees are stated in Canadian dollars and are inclusive of all applicable federal and provincial taxes. Payments may be processed through a third party payment processing service with which we have a contractual relationship. We expressly disclaim any liability arising out of your use of the third party’s payment processing services.

**Cancellation** Users who do not contact us via the Website, the User Account, email [kingswaypilates@gmail.com](mailto:kingswaypilates@gmail.com), the App or via telephone [(416)347-7949] to cancel a scheduled Service may be charged a Fee at our sole discretion. Cancellation fees can be found on our [Fees](#) page.

**No Endorsements** Unless expressly stated, we do not recommend or endorse any particular brand of products, services, procedures, or other information that may appear from time to time on any one or more of our Website, User Account, App, or Content.

**Linking** The Website, User Account, App, or Content may contain links to third-party websites. These links are provided for convenience only and not as our endorsement of any third-party website and its content. Unless specifically stated, we do not operate any third-party website and are not responsible for its content, nor do we make any representation, warranty or covenant of any kind regarding any third-party website including, without limitation, any representation, warranty, or covenant:

- a) regarding the legality, accuracy, reliability, completeness, timeliness, or suitability of any content on such third-party websites;
- b) regarding the merchantability and/or fitness for a particular purpose of any third-party websites or material, content, software, goods, or websites located at or made available through such third-party websites; or
- c) that the operation of such third-party websites will be uninterrupted or error free, that defects or errors in such third-party websites be corrected, or that such third-party websites will be free from viruses or other harmful components.

You may not link the Website, User Account, App, or Content to or from any third-party website. We reserve the right to prohibit or refuse to accept any link to the Website, User Account, App,

or Content at any time and may remove a link without notice. If we so request, you agree to remove any link to the Website, User Account, App, or Content you may have acquired or stored.

**Disclaimer** The Website, User Account, App, and Content are provided “as is” and “as available”. While we endeavour to provide accurate, current, and timely information, we make no representation, warranties or covenants, express or implied, regarding the Website, User Account, App, or Content including, without limitation, no representation, warranty or covenant that:

- a) the Website, User Account, App or Content contained in or made available through the App, will be of merchantable quality or fit for a particular purpose;
- b) the Website, User Account, App, or Content will be accurate, complete, current, reliable, timely or suitable for any particular purpose;
- c) the operation of the Website, User Account, App, or Content will be uninterrupted or error free;
- d) defects or errors, whether human or computer errors, in the Website, User Account, App, or Content will be corrected;
- e) the Website, User Account, App, or Content will be free from viruses or harmful components; and
- f) that communications to or from the Website, User Account, App, or Content will be secure and not intercepted.

You acknowledge and agree that your access and use of the Website, User Account, App, and Content is solely at your own risk and liability. We expressly disclaim responsibility for any damages or losses, including fees for legal costs, arising from Users’ use of the Website, App or User Account.

**Limitation of Liability** Other than as stated herein, in no event shall we or our employees, agents, affiliates, officers, directors or licensors, and their respective successors and assigns, jointly or severally, be liable for damages of any kind, including, without limitation, any direct, indirect, special, punitive, incidental, or consequential costs, expenses, fees, or losses relating to your use of the Website, User Account, App, Services or Content, or your inability to use the Website, User Account, App, Services or Content, except to the extent of the value of the Fees paid by you.

We expressly disclaim any liability arising from any indirect, special, punitive, incidental or consequential damages or losses sustained by You, or your dependants, relating to your use of any one or more of the Services.

We further disclaim any and all liability for the acts, omissions, and conduct of any third-party user of the App (including any person you may allow to access your App), or any advertiser or sponsor of the Website, User Account, App, or Content (collectively, “**third-party**”). Under no circumstances shall we or our employees, agents, affiliates, officers, directors or licensors, and their respective successors and assigns, jointly or severally, be liable for any injury, loss, damage

of any kind (including direct, indirect, special, punitive, incidental, or consequential damages), or expenses arising in any fashion whatsoever from:

- a) the acts, omissions, or conduct of any third-party, and
- b) your access, use, reliance upon or inability to use any materials, content, goods, or services located at, or made available at, any website or third-party application linked to or from the Website, User Account, App, or Content, regardless of the cause and whether arising in contract (including fundamental breach), tort (including negligence), or otherwise. The foregoing limitation shall apply even if we knew of or ought to have known of the possibility of such damages.

This disclaimer and limitation of liability apply for the duration of, and after termination of, your use of the Website, App, Services and Content.

**Indemnity** You agree to indemnify, defend, and hold us harmless and our employees, agents, affiliates, officers, directors, licensors, and their respective successors and assigns, from and against any and all claims, demands, liabilities, costs, and expenses whatsoever, including, without limitation, legal fees and disbursements, resulting directly or indirectly from:

- a) your breach of any of the terms and conditions of this Agreement;
- b) your access to, use, misuse, reliance upon, or inability to access or use the Website, User Account, App, or Content or any website or third party application to which the Website, User Account, App, Services or Content is or may be linked to from time to time; or
- c) your use of, reliance on, publication, communication, distribution, uploading, or downloading of anything (including the Content) on or from the Website, User Account, App or Services.

This indemnity applies for the duration of, and after termination of, your use of the Website, App, Services and Content.

**Modification to the App or Website** We reserve the right at any time, and from time to time, to modify or discontinue, temporarily or permanently, the Website, User Account, App, or Content or any part thereof with or without notice to you. We shall not be liable to you or any third party for any modifications, suspension, or discontinuance of the Website, User Account, App, or Content or any part thereof.

**Termination** We may, at our sole discretion, cancel or terminate your right to use the Website, User Account, App, or Content or any parts of the Website, User Account, App, or Content at any time without notice. In the event of termination, you are no longer authorized to access the Website, User Account, App, or Content or the parts of the Website, User Account, App, or Content affected by such cancellation or termination. The restrictions imposed on you with respect to material downloaded from the Website, User Account, App, or Content, the disclaimers, and limitations of liabilities set out in this Agreement shall survive termination of this Agreement. We shall not be liable to you or to any third-party for such termination.

**Deactivation of User Account** You may deactivate your User Account at any time, for any reason, by sending an email to [@kingwaypilates.com](mailto:@kingwaypilates.com) and by uninstalling the App on your mobile device.

**Use Prohibited Where Contrary to Law** Use of the Website, User Account, App, or Content is unauthorized in any jurisdiction where the Website, User Account, App, or Content may violate any laws or regulations. You agree not to access or use the Website, User Account, App, or Content in such jurisdictions. You agree that you are responsible for compliance with all applicable laws and regulations. Any contravention of this provision, or any provision of this Agreement, is entirely at your own risk.

**Governing Law** You agree that all matters relating to your access or use of the Website, User Account, App, and Content shall be governed by the laws of the Province of Ontario and the laws of Canada applicable therein, without regard to principles of conflicts of law. You agree and hereby submit to the exclusive jurisdiction of the courts of the Province of Ontario, and of Canada, with respect to all matters relating to your access and use of the Website, User Account, App, or Content, as well as any dispute that may arise therefrom.

**Severability** If any provision of this Agreement is determined to be invalid or unenforceable, in whole or in part, by any court of competent jurisdiction, the remaining provisions of this Agreement continue in full force and effect.

**Assignment** This Agreement is not assignable, transferable, or to be sublicensed by you except with our prior written consent. We may assign, transfer, or delegate any of our rights and obligations hereunder without your consent.

**Waiver** Any consent given by us, either express or implied, to, or waiver of, a breach of this Agreement which you have committed shall not constitute a consent to, or waiver of, any other or subsequent breach.

**Entire Agreement** This terms of use agreement, the [privacy policy](#), the [Electronic Communication Policy and Consent](#) and the [Assumption of Risk, Waiver and Release](#) constitutes the entire Agreement between you and us relating to your access and use of the Website, User Account, App, and Content (the Agreement). This Agreement supersedes and invalidates all prior representations, warranties, understandings, and agreements between you and us relating to the subject matter of this Agreement.

**Contact Us** Questions or comments regarding the Website, User Account, App, and Content should be directed to [kingswaypilates@gmail.com](mailto:kingswaypilates@gmail.com) or (416) 347-7949.

**Acknowledgement** By registering for and using one or more of a User Account, the Website and the App, you acknowledge that you understand and agree that:

- a) you are receiving and we are providing the Services;
- b) we may determine that the Services are not appropriate for some or all of your needs, and accordingly we may elect, at our sole discretion, not to provide the Services to you. If this occurs we will not charge you any Fees.



- f) By agreeing to the terms and conditions of this agreement, you agree to our [Privacy Policy, Fees, Electronic Communication Policy and Consent](#) and [Assumption of Risk, Waiver and Release](#).
- g) One or more of the Website, User Account, App, or Content could include technical, typographical or photographic errors and we do not warrant that any of the Content is accurate or current.

For questions about this Agreement, including these terms of use, our Privacy Policy, Fees, Electronic Communication Policy and Consent and Assumption of Risk, Waiver and Release you may contact us at [kingswaypilates@gmail.com](mailto:kingswaypilates@gmail.com) or (416)347-7949.

I \_\_\_\_\_ have read and understand the Terms of Use.  
Print Full Name

Signature: \_\_\_\_\_

Date: \_\_\_\_\_