



***Last Updated: July 12, 2022***

***Change log: updated to include B2B contractual agreements***

These YourCoach Terms of Service (“Terms”) set forth the terms and conditions upon which YourCoach Health, Inc., d/b/a YourCoach Health (“YourCoach”, “we”, “our”) offers you, our third party registered end-users (“End-User(s)”), access to YourCoach’s proprietary coaching platform (the “Platform”) through the YourCoach application (the “App”) and the YourCoach website (the “Site”). By clicking “I Agree” or by registering with, accessing or otherwise using the Platform, you agree to be bound by these Terms. If you do not agree to these Terms, do not access or use the Platform. End-Users are either health and/or wellness coaches who register with the Platform (each, a “Coach”) or individuals seeking health, wellness and/or lifestyle information who register with the Platform and subscribe for services (either individually or via a subscription with YourCoach’s B2B clients) (each, a “Client”).

## **License & reservation of rights**

1.1 Limited License to Use the Platform. Subject to End-User’s compliance with these Terms, YourCoach hereby grants to End-User a limited, personal, non-exclusive, non-transferable, license to use the App and/or the Site, as applicable, to access Platform solely for the End-User’s own personal purposes. Except for the licenses and rights expressly granted under these Terms, no licenses or rights are granted by YourCoach to End-User hereunder, and all such other licenses and rights are reserved to YourCoach.

1.2 End-User Registration. End-User shall either (i) register a YourCoach account for itself, or (ii) accept an automatically-created username provided to End-User. End-User represents and warrants (i) it will keep its account credentials and passwords confidential, and shall be responsible for any use of the App, the Site or the Platform via End-User’s account, and (ii) it has the right to provide the End-User Content (as defined below) via the Platform and the App and/or the Site, as applicable. End-Users may not register a YourCoach account if they are under eighteen (18) years old without providing verifiable parental consent.

1.3 Other License Restrictions. End-User shall not (i) copy or modify the Platform, App or Site for any purpose; (ii) reverse engineer, decompile, modify, translate, disassemble or discover the source code for all or any portion of the Platform, the App or the Site; or (iii) distribute, disclose, market, rent, lease or otherwise transfer the Platform, the App or the Site to any other person or entity. You may not use, reproduce or distribute the text, graphics, downloads, tools or any other content on the Platform for any purpose other than in connection with accessing or using the functionality provided via the Platform in accordance with these Terms.



1.4 Specific Tools. YourCoach offers certain functionality via the App and the Site (or via its B2B client's applications). Your use of such functionality is also subject to any additional terms specific to such functionality (e.g. videoconferencing or payment processing applications).

1.5 Intellectual Property Rights. We retain all intellectual property rights in and to the Platform, the App and the Site, and all related documentation interest (including all copyrights, patents, service marks, trademarks and other intellectual property rights), including but not limited to any and all updates, enhancements, customizations, revisions, modifications, future releases and any other changes thereto, and all related information, material and documentation. Except for rights specifically provided in this Agreement, End-User hereby assigns to YourCoach all other intellectual property rights it may now or hereafter possess in the Platform, the App, the Site, and related documentation, and all derivative works and improvements thereof, and agrees to execute all documents, and take all actions, that may be necessary to confirm such rights. End-User also agrees to retain all proprietary marks, legends and patent and copyright notices that appear on the Platform, the App, and the Site, and any related documentation delivered to End-User by YourCoach and all whole or partial copies thereof.

1.6 End-User Content. "End-User Content" means data, images or other content uploaded to the Platform through the App, the Site, or otherwise used in connection with the End-User's use of the Platform. End-User (or its licensors) shall own and continue to own all right, title and interest in and to the End-User Content. End-User hereby grants to YourCoach a royalty-free worldwide license to use and modify the End-User Content in connection with the provision of the App, the Site and the Platform, and related services. Use by YourCoach of End-User Content shall be governed by these Terms and the terms of the YourCoach <Privacy Policy>. The Platform may, from time to time, offer interactive features that allow End-Users to submit End-User Content. YourCoach does not and cannot review all such End-User Content, and is not responsible for such End-User Content. You acknowledge that by providing the ability to view and distribute your End-User Content, YourCoach is merely acting as a passive conduit for such distribution and is not undertaking any obligation or liability related thereto. However, YourCoach reserves the right to block or remove communications or materials that it determines to be unacceptable to YourCoach in its sole discretion. Harassment in any manner or form on the Platform, including via e-mail, chat, or by use of obscene or abusive language, is strictly forbidden. Impersonation of others, including a YourCoach employee or representative, as well as other members or visitors on the Platform, is prohibited. You may not upload to, distribute, or otherwise publish through the Platform any content which is libelous, defamatory, obscene, threatening, invasive of privacy or publicity rights, abusive, illegal, or otherwise objectionable which may constitute or encourage a criminal offense, violate the rights of any party or which may otherwise give rise to liability or violate any law.

1.7 Additional Restrictions. YourCoach, the Platform, the App and the Site do not provide medical advice. Requesting or providing medical advice, diagnoses or treatment (or purporting to do so) via the Platform, the App or the Site is strictly prohibited. If a Client is seeking medical attention for physical or mental ailments, Client should seek help from a licensed medical professional as soon as possible, and shall not utilize the Platform for any such help.



## **2. Warranty disclaimer and limitations of liability**

2.1 Warranty Disclaimer. YOURCOACH DISCLAIMS ANY AND ALL WARRANTIES RELATING TO THE PLATFORM, THE APP, THE SITE, OR ANY OTHER MATTER COVERED BY THESE TERMS, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. YOURCOACH DOES NOT WARRANT THAT THE PLATFORM, APP OR SITE WILL OPERATE WITHOUT INTERRUPTION OR DELAY AND/OR BE ERROR FREE, OR THAT ANY FAILURES OF THE PLATFORM, APP OR SITE TO CONFORM TO THE DOCUMENTATION CAN OR WILL BE CORRECTED. YOURCOACH MAKES NO WARRANTIES OR REPRESENTATIONS AS TO THE ACCURACY OF (i) ANY END-USER CONTENT PROVIDED TO OR PROCESSED BY THE PLATFORM, THE APP OR THE SITE OR PROVIDED BY COACHES OR CLIENTS TO EACH OTHER, (ii) THE CREDENTIALS OR QUALIFICATIONS OF ANY COACH, OR (iii) THE INFORMATION PROVIDED BY ANY CLIENT. NEITHER THE PLATFORM, THE APP OR THE SITE, NOR ANY CONTENT SET FORTH THEREIN, CONSTITUTES MEDICAL ADVICE.

2.2 Limitations of Liability. In NO EVENT SHALL YOURCOACH BE LIABLE FOR LOST PROFITS OR BUSINESS, LOSS OF GOODWILL, LOSS OF DATA, INTERRUPTION OF BUSINESS, OR FOR ANY EXEMPLARY, PUNITIVE, SPECIAL, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES, REGARDLESS OF WHETHER SUCH DAMAGES ARISE UNDER ANY THEORY OF TORT, CONTRACT, STRICT LIABILITY OR OTHERWISE AND REGARDLESS OF WHETHER SUCH PARTY IS ADVISED OF THE POSSIBILITY OF ANY SUCH DAMAGES. The aggregate liability of YourCoach for any and all claims arising under or in connection with these Terms, the Platform, the App, the Site, or their subject matter shall not exceed \$500. [Some jurisdictions may not permit the limitation of liability as described above, so some or all of the described limitations may not apply to you.

## **3. Indemnification & unauthorized use**

3.1 Indemnification. End-User hereby agrees to indemnify and hold harmless YourCoach from any and all damages, costs and expenses (including, without limitation, reasonable attorneys' fees) suffered or incurred by YourCoach in connection with any claims that YourCoach is required to pay to third parties to the extent such damages, settlement amounts, costs and expenses are attributable to End-User's provision of the End-User Content, including any actual or alleged violations of third party intellectual property by such End-User Content, or End-User's violation of these Terms.

3.2 Notification of Unauthorized Use. End-User shall promptly notify YourCoach in writing upon its discovery of any unauthorized use or infringement of the Platform, the App, the Site, or the related documentation, or YourCoach's intellectual property rights with respect thereto. YourCoach shall have the sole and exclusive right to bring an infringement action or proceeding against any infringing third party, and, in the event that YourCoach brings such an action or



proceeding, End-User shall cooperate and provide full information and assistance to YourCoach and its counsel in connection with any such action or proceeding.

#### **4. Term and termination**

4.1 Term. End-User's access to the App, the Site and the Platform shall begin on the date End-User registers for an account and accepts these Terms, and shall continue until terminated earlier under the provisions of this Article 4.

4.2 Termination by YourCoach. YourCoach may terminate End-User's use of the Platform, the App and/or the Site at any time. In the event YourCoach terminates your use of the Platform other than due to your breach of these Terms or any payment or other obligations in connection with your use of the Platform, the App and/or the Site: (i) if you are a Client, any pre-paid but unused fees which have been paid by you to YourCoach will be refunded to you, and (ii) if you are a Coach, any fees due to you but unpaid as of the date of termination will be paid.

4.3 Termination by End-Users. If you do not agree to be bound by any updated Terms, you must immediately discontinue use of the Platform, the App and the Site.

4.4 Effect of Termination. Upon the expiration or sooner termination of these Terms, all license rights of End-User under these Terms shall automatically and immediately cease and End-User shall promptly cease all uses of the Platform and the Site, and shall uninstall the App. Sections 1.2, 1.3, 1.4, 1.5, 2.2, 2.3, 3, 4.3, and 5-8 shall survive the expiration or sooner termination of these Terms.

#### **5. Third party links**

YourCoach may link to sites operated by third parties. However, even if the third party is affiliated with YourCoach, YourCoach has no control over these linked sites, all of which may have separate privacy and data collection practices, independent of YourCoach. These linked sites are only for your convenience and therefore you access them at your own risk. Without limiting the foregoing, YourCoach specifically disclaims any responsibility if such sites: infringe any third party's intellectual property rights; are inaccurate, incomplete or misleading; are not merchantable or fit for a particular purpose; do not provide adequate security; contain viruses or other items of a destructive nature; or are libelous or defamatory. YourCoach does not endorse the content, or any products or services available, on such sites. Nonetheless, YourCoach seeks to protect the integrity of its Site and the links placed upon it and therefore requests any feedback on not only its own Site, but for sites it links to as well (including if a specific link does not work).



## 6. Copyright complaints

YourCoach respects the intellectual property of others. The Digital Millennium Copyright Act (DMCA) provides recourse for copyright owners who believe that material appearing on the Internet infringes their rights under U.S. copyright law. If you believe in good faith that materials hosted by YourCoach infringe your copyright rights, you (or your agent) may send us a notice requesting that the material be removed, or access to it blocked. The notice must include the following information: (i) a physical or electronic signature of a person authorized to act on behalf of the owner of an exclusive right that is allegedly infringed; (ii) identification of the copyrighted work claimed to have been infringed, or, if multiple copyrighted works at a single website are covered by a single notification, a representative list of such works at that site; (iii) identification of the material that is claimed to be infringing or to be the subject of infringing activity and that is to be removed or access to which is to be disabled, and information reasonably sufficient to permit us to locate the material; (iv) information reasonably sufficient to permit us to contact you, such as an address, telephone number and email address; (v) a statement that you have a good faith belief that use of the material in the manner complained of is not authorized by you, your agent, or the law; and (vi) a statement that the information in the notification is accurate, and under penalty of perjury, that you are authorized to act on behalf of the owner of an exclusive right that is allegedly infringed. All notices described above should be sent to YourCoach's Designated Agent (by email, fax, or mail) at: [privacy@yourcoach.health](mailto:privacy@yourcoach.health) or 64 Bay 38th Street, #3A, Brooklyn, NY 11214 .

## 7. Client – Coach agreements

Coaches and Clients agree (i) YourCoach does not (a) provide consultations or advice, (b) **except as otherwise agreed upon in writing by YourCoach in connection with services provided to its B2B clients**, guarantee it will match Client requests for Coaches, or (c) guarantee any match provided will result in an agreement between a Client and a Coach; and (ii) YourCoach is not a party to, and shall not be responsible for the performance of, any agreement between Coaches and Clients which may occur on the Platform or otherwise result from an introduction made through the Platform.

## 8. General

1.1 Modification of Terms; Changes to Functionality. YourCoach may, at any time and without notice to you, modify these Terms by revising them and posting them on the App and/or the Site, as applicable. Notwithstanding any changes or updates, no such changes or updates will be retroactive. Your continued use of the Platform, the App and/or the Site after such changes or updates constitutes your acceptance of any such revisions as of the date of such revisions.



Additionally, YourCoach may discontinue or change all or part of the Platform, the App, the Site and/or any related services with or without notice to you.

1.2 Export Compliance. The Platform, the App and the Site may be subject to U.S. and other national export controls and economic sanctions. Individuals or entities owned or controlled, registered in, or related to Cuba, Iran, Syria, Crimea, Donetsk People's Republic, Luhansk People's Republic, , or North Korea are not permitted to use the App or the Site or access the Platform without prior written permission from YourCoach once granted by the appropriate jurisdiction. The rights and obligations of End-User shall be subject to such United States laws and regulations as shall from time to time govern the license and delivery of technology abroad by persons subject to the jurisdiction of the United States, including the Export Administration Act of 1979, as amended, any successor legislation to the Export Administration Act of 1979, and the Export Administration regulations issued by the Department of Commerce, and the Office of Foreign Assets Control, Department of the Treasury, regulations, International Trade Administration, Office of Export Administration. End-User each shall certify that it shall will not, directly or indirectly, export, re-export or transfership the Platform in such manner as to violate such laws and regulations in effect from time to time. End-User shall indemnify and hold harmless YourCoach from and against any and all losses, claims and expenses incurred by YourCoach as a result of the breach of End-User's obligations under this Section.

1.3 Independent Contractors. In making and performing these Terms, the parties are acting and shall act as independent contractors. Neither party is, nor will be deemed to be, an agent, legal representative, joint venturer or partner of the other party for any purpose.

1.4 Force Majeure. In the event that YourCoach is unable to perform its obligations under these Terms because of acts of God, strikes, equipment or transmission failure, unavailability or poor performance of the Internet, or other causes reasonably beyond its control, YourCoach shall not be liable to the End-User for any damages resulting from such failure to perform or otherwise from such causes.

1.5 Governing Law. These Terms and its subject matter shall be governed in accordance with the laws of the State of New York, without reference to its conflict of laws principles. You agree that the federal or state courts sitting in New York, New York shall be the exclusive courts of jurisdiction and venue for any litigation, special proceeding or other proceeding as between the parties that may be brought, or arise out of, or in connection with, or by reason of these Terms. The United Nations Convention on Contracts for the International Sale of Goods is expressly disclaimed.

1.6 Assignment. End-User may not assign any of its rights or privileges, or delegate any of its duties or obligations hereunder to any third party without the prior written consent of YourCoach. Any purported assignment in contravention of this Section shall be null and void. Subject to the foregoing, these Terms shall be binding upon and inure to the benefit of the parties hereto and their respective permitted successors and assigns.



1.7 Notices. All notices and other communications hereunder shall be in writing and shall be deemed effective when delivered by hand, reputable overnight delivery service, or certified mail (return receipt requested), postage prepaid to: (a) in the case of YourCoach, to mborukhovich@yourcoach.health, to the attention of Marina Borukhovich; and (b) in the case of End-User, to the email address set forth in its account information.

1.8 Entire Agreement; Amendment. These Terms constitute the entire agreement between the parties concerning the subject matter hereof and supersede all prior understandings and agreements between the parties, whether written or oral, regarding the subject matter hereof. You agree carefully to review these Terms, and the other YourCoach policies and agreements applicable to you, before using the Platform, the App, the Site, or services and functionality offered therein. You agree that if any term of these Terms of Use is held by a court of competent jurisdiction to be invalid, unlawful or incapable of being enforced, then all conditions and provisions of this Agreement that can be given effect without such invalid, unlawful or unenforceable provision, shall nevertheless remain in full force and you agree to be bound by the remaining, enforceable terms, provided that the original intentions of you and YourCoach under these Terms shall be maintained.

1.9 Waivers. A waiver by either party of a breach or violation of any provision of these Terms will not constitute or be construed as a waiver of any subsequent breach or violation of that provision or as a waiver of any breach or violation of any other provision of these Terms.