



## MEMBER TERMS

These Member Terms ('Terms') apply to all Members using our Services. We may modify and update these Terms at any time, without notice. Please ensure you review the Terms from time to time. In using our website and signing up for any membership or any of our Services, you agree to be bound by these Terms as well as any and all general Terms and Conditions posted on our website from time to time.

## DEFINITIONS

"Client" means any individual accessing and signing up for the Services

"Confidential Information" means all confidential proprietary and copyrighted material provided to you which is non-public relating to our business, analyses, technology and includes all valuation models, data and derivative tools.

"Services" means online and offline personal health and fitness training services

"Member" means a Member to our Services including but not limited to the products and services on or offered through this website.

"Membership Fee" means the fee for our Services paid weekly or fortnightly as advised from time to time

"Program" means the personalised program designed for the Client which includes diet, nutrition, training, goal setting and other recommendations for body transformation

"the website" means [indomitablecrew.com](http://indomitablecrew.com)

"We", "our", "us", and "the Coach" means KTPC Team Indomitable Pty Ltd and includes its directors, employees and contractors

"You" means the Member to our services and by doing so, agree to these Terms.

## MEMBERSHIPS

You must complete a New Client form, Health Screening form, Direct Debit Authority form, and agree to the Terms of Use (Terms & Conditions) to access our Services. The Membership eFe must be paid fully in advance and the regular instalments are automatically deducted from your nominated payment method, unless you or we cancel the subscription in accordance with the below Cancellation terms.

Memberships are available over a minimum term of 12 weeks ("Membership Period") and may be paid either weekly or fortnightly. The minimum term is 12 weeks ('Minimum Term'). Any cancellations or refunds during the Minimum Term will incur a \$200 cancellation fee.



## HOW IT WORKS

Once you sign up for our Services, we arrange a one-on-one initial consultation with you for approximately one hour duration. This session is to find out your goals and current fitness and health, diet, and lifestyle in order to design an individualised Program to suit your specific goals.

We will then provide you with access to our online licensed program Recomp™ to help track and provide feedback on your progress.

## AGREEMENT FOR MEMBERSHIP SERVICES

To be eligible to sign up for our Services, you acknowledge and agree to the following:

- You will not share your password or login details with any other person and you will keep your contact, payment and other information updated.
- Cancellation of any sessions or consultations you may have arranged with any of our coaches /trainers requires a minimum of 24 hrs notice. Cancellation within 24 hrs of any session will incur a 50% payment for the cancelled session. Any other cancellation or no-show will forfeit the session and payment.
- Rescheduling of your appointment must be within the week. If you choose to cancel your appointment and not reschedule, you will be charged 50% of your weekly rate (this does not apply to holidays, serious injury, or emergency situations).
- You are responsible for consulting your own suitably qualified medical or other professional before commencing any new regime that may impact your health, or engaging in any exercise, technique or taking any course of action that may directly or indirectly affect or impact your health or well-being, including but not limited to any changes to your diet.
- Results of the Services vary between individuals. For this reason, performance, progress and success of any particular part of the Services is reliant on the individual to meet their own requirements. The Coach cannot, and does not, guarantee any particular and/or any general results. The Client is solely responsible for their own progress. If at any time during the Service you feel your progress is not as expected, it is your responsibility to immediately advise the Coach of any concerns, giving the Coach an opportunity to address and assist. The Coach will use reasonable efforts to resolve your concerns, however at no time does the Coach guarantee or warrant any increase or altered progress or performance.
- The Coach may, from time to time or as part of the Services, recommend products, exercise or diet regimes, practices or treatments in the course of or as part of their Services. If you have or suspect you may have allergies or medical issues which may be affected by certain foods, or, after taking any course of action recommended by the Coach, find you may have or are experiencing side effects which are uncomfortable or concerning, you should stop any regime and promptly contact your professional health care provider. Any statements either on the website, in any online course, or made by the Coach regarding diet, food or



treatments are to be used at your discretion and are not intended to diagnose, treat, cure or prevent any disease.

- We do not warrant, promise or guarantee that by using our Services, or that any of the information we provide from the Services, will produce any particular result. At no time do we provide any guarantees or warranties in relation to our Services beyond those required by Australian Consumer Law ('ACL'). Our Services come with general consumer law guarantees that cannot be excluded, modified or restricted under the ACL and are in addition to any manufacturer or supplier warranty.
- You are not to share, re-create, or otherwise reproduce the information or Services on or provided through our website, or otherwise transmitted to you by us except as agreed in these Member Terms and as intended. In particular, you are not to sell, re-sell or otherwise provide any part of our Services in any way, manner, medium or create derivative works to any third party. No reproduction, distribution or transmission of the copyrighted material on our website or Services is permitted without our written permission which may be granted in our sole discretion.
- You will not transfer, sublicense or grant access any of our Services to any other person, company, business except as agreed in these Member Terms.
- You agree you will not transmit any viruses, malware, worms, etc. of any kind and that you will not upload, post, host or transmit unsolicited material or messages to the website or the Recomp™ service.
- We make no warranty that the website Services will meet your requirements or be available on an uninterrupted, secure or error-free basis. We will use our best endeavors to ensure the website is always available and virus free but from time-to-time, and in some instances, this may not be the case as it may be out of our immediate control. We will endeavor to notify you if the website becomes unavailable for any lengthy and unusual time period; and
- The website uses third party vendors and hosting partners to provide the necessary software, hardware, service and storage.

## LIABILITY

You agree and acknowledge that we are not liable for any direct, indirect, consequential or incidental loss or damage which may result from your use of our website, or all or any part of the Services. By engaging our Services, you agree to indemnify and hold us harmless (including but not limited to the Coach) from and against any and all actions, claims, liabilities, proceedings or demands which may be brought against us in respect of any loss, death, injury, illness or damage (whether personal or property and including reasonable legal fees and expenses). You also agree you are liable for any and all claims, liabilities, actions and expenses including but not limited to any third party claims, which may result either directly or indirectly from a breach of these Member Terms, misuse of the Services or in connection with any of the Services.



This limitation of liability clause includes any reliance by you on the information on the website, access to or inability to use the website or Services. You assume all risk in using the Services and we cannot be liable for your use of or reliance on this Service. While we endeavor to keep the website and content up-to-date and correct, we make no representation or warranties of any kind, express or implied, about the completeness, accuracy, reliability, suitability or availability with respect to the Services for any particular purpose and provide it for your informational purposes and out of our own analysis. Any reliance you place on such information is therefore strictly at your own risk.

**ACL:** Certain legislation including the Australian Consumer Law (ACL) in the *Consumer and Competition Act 2010 (Cth)*, and similar consumer protection laws and regulations may confer you with rights, warranties, guarantees and remedies relating to the provision of Services by us to you which cannot be excluded, restricted or modified (Statutory Rights).

Our liability is governed solely by the ACL and these Terms. We exclude all conditions and warranties implied by custom, law or statute except for your Statutory Rights.

Except for your Statutory Rights, all goods and services are provided to you without warranties of any kind, either express or implied; and we expressly disclaim all warranties of any kind including but not limited to implied warranties of that the Services will be provided with due care and skill and fitness for a particular purpose.

When your Statutory Rights apply, to the extent possible, our liability in respect of any claim is limited to, at our option:

- a) The supply of any services again; or
- b) The payment of the cost of having any services supplied again.

Our failure to exercise or enforce any right or provision of these Terms shall not constitute a waiver of such right or provision.

## REFUNDS

We offer refunds for prepaid amounts after the Minimum Term only. We ask that you provide us with 7-days notice in writing and we will provide a refund for any prepaid amounts less an \$80 administrative fee. Any other refund is in our sole discretion.

We at all times abide by the Australian Consumer Law ('ACL') with respect to any refund.

## CANCELLATION AND TERMINATION

**TO CANCEL YOUR MEMBERSHIP:** You are solely responsible for cancelling your membership. You must cancel in writing by notifying us at [admin@theindomitablecrew.com](mailto:admin@theindomitablecrew.com)



We will accept your request to cancel if the Minimum Term has expired and you provide 7 days written notice. There is also an administration fee of \$80.

**WE MAY TERMINATE YOUR MEMBERSHIP:** We have the right to terminate your membership or, in our sole discretion, terminate or suspend your membership access to the website and our Services, with or without notice if:

- a) you fail to pay your Membership Fees when payment is due;
- b) you behave in a way that is risky or seriously inappropriate, such as bullying, threatening or harassing others, damaging equipment, act in an improper manner, you are suspected to be using illegal drugs, not heeding our instructions where you are requested and required by us to do so for your own safety; or
- c) you otherwise breach these Member Terms.

Any suspected fraudulent, abusive or illegal activity may be grounds for terminating your relationship and may be referred to the appropriate law enforcement authorities.

Upon such termination, regardless of the reasons, your right to use the website and our Services immediately ceases and you acknowledge and agree we may immediately deactivate or delete your account and all related information and files. We may also bar you from any further access to our website and Services. We shall not be liable to you or any third party for any claims or damages arising out of any termination or suspension or any other actions taken by us in connection with such termination or suspension.

We are not required to provide any refund or part thereof to you for such termination of your Membership. Any other refund may be determined in our sole discretion.

## **MODIFICATION OF WEBSITE, CONTENT AND SERVICES**

We reserve the right at any time and from time to time to remove, delete, alter or amend any content, Services or the website itself at any time without notice. We shall not be liable to you or any third party for any modification when it is required.

We reserve the right to disclose your name and any other personal details to any law enforcement authority or other competent authority or person for the purpose of legal proceedings, prosecution, investigation or any breach or alleged breach of the law or these Membership Terms.

## **INTELLECTUAL PROPERTY**

All custom graphics, icons, logos and service names are registered trademarks, copyright, trade or service marks of KTPC Team Indomitable Pty Ltd and Indomitablecrew.com.

All other trademarks or service marks within this website are the property of their respective owners. You own and retain ownership of any Client Content you have created and added to



the website. Nothing in these Terms of Use grants you any right to use any trademark, service mark, logo, and/or our name or anything you access through our Services.

You agree and acknowledge that we retain all right, title and interest in the Services, including but not limited to the inventions and intellectual property rights contained or embodied within the Services.

You are solely responsible for obtaining written permission before re-using any copyrighted material on this website. Any unauthorized use of materials appearing on this site may violate copyright, trademark and other applicable laws and could result in criminal or civil penalties.

## **YOUR PRIVACY**

We are committed to protecting your privacy. We use the information we collect about you to maximize the services that we provide to you. We respect the privacy and confidentiality of the information provided by you and adhere at all times to the Australian Privacy Principles. Please read our separate Privacy Policy carefully.

You may change your details at any time by advising us in writing via email. All information we receive from our customers is protected. Credit card information is not stored on our servers.

## **THIRD PARTIES**

We do not and will not sell or deal in personal or customer information. We may however use in a general sense without any reference to your name, your information to create marketing statistics, identify user demands and assist in meeting customer needs generally. In addition, we may use the information that you provide to improve our website and services but not for any other use.

## **DISCLOSURE OF INFORMATION**

We may be required, in certain circumstances, to disclose information in good faith and where we are required to do so in the following circumstances: by law or by any court; to enforce the terms of any of our customer agreements; or to protect the rights, property or safety of our customers or third parties.

## **GOVERNING LAW**

These Terms are governed by the laws of Victoria which are in force from time to time and both you and we agree to submit to the exclusive jurisdiction of the Courts of Victoria for determining any dispute concerning these Terms.