

Website and App Terms and Conditions and Release of Liability

Intellectual Property

All content published and made available on our Site is the property of Wendy Van Oosten and the Site's creators. This includes but is not limited to images, text, logos, documents, downloadable files, and anything that contributes to the composition of our Site.

Accounts

When you create an account on our Site you agree to the following:

1. You are solely responsible for your account and the security and privacy of your account including passwords or sensitive information attached to that account, and;
2. All personal information you provide to us through your account is up-to-date, accurate, and truthful, and that you will update your personal information if it changes.

We reserve the right to suspend or terminate your account if you are using our Site illegally or if you violate these Terms and Conditions.

Sale of Goods and Services

These Terms and Conditions govern the sale of goods and services available on our Site:

- Health and fitness programmes, online coaching services, recipe books, eBooks, memberships.

The goods and services will be paid for in full upon placing your order. These Terms and Conditions apply to all the goods and services that are displayed on our Site at the time you access it. This includes all products listed as being out of stock. All information, descriptions, or images that we provide about our goods and services are as accurate as possible, however, we are not legally bound by such information, descriptions, or images as we cannot guarantee the accuracy of all goods and services we provide. You agree to purchase goods and services from our Site at your own risk.

We reserve the right to modify, reject, or cancel your order whenever it becomes necessary. If we cancel your order and have already processed your payment, we will give you a refund equal to the amount you paid. You agree that it is your responsibility to monitor your payment instrument to verify receipt of any refund.

Subscriptions

Your subscription automatically renews, and your chosen payment method will continue to be charged until we receive notification that you want to cancel the subscription. With consideration of upcoming expiry of the specified minimum commitment period for each programme / membership, you may cancel your subscription by providing Seven (7) Days' notice in writing (by Email, SMS, or chat function in our Everfit App) prior to the next scheduled payment.

Payments

We accept the following payment methods on our Site:

- Credit card, Debit card, and Direct Debit.

When you provide us with your payment information you authorise our use of and access to the payment instrument you have chosen to use. By providing us with your payment information you authorise us to charge the amount due to this payment instrument. If we believe your payment has violated any law or these Terms and Conditions, we reserve the right to cancel or reverse your transaction.

Refunds

No refunds will be provided on any unused portion of programmes, online programmes, packages, memberships, recurring payments, coaching services, or any other services offered from time to time. Wendy Van Oosten reserves the right to waive the refund policy in extenuating circumstances. It is recommended that you contact Wendy Van Oosten before signing up for any programme if you are unsure whether it is suitable.

Consumer Protection Law

Where the *Australian Consumer Law, Schedule Two of The Competition and Consumer Act 2010*, or any other consumer protection legislation in your jurisdiction applies and cannot be excluded, these Terms and Conditions will not limit your legal rights and remedies under that legislation. These Terms and Conditions will be read subject to the mandatory provisions of that legislation. If there is a conflict between these Terms and Conditions and that legislation, the mandatory provisions of the legislation will apply.

Limitation of Liability

Wendy Van Oosten and our directors, officers, agents, employees, subsidiaries, and affiliates will not be liable for any actions, claims, losses, damages, liabilities, and expenses including legal fees from your use of the Site or your violation of these Terms and Conditions.

Indemnity

Except where prohibited by law, by using this Site you indemnify and hold harmless Wendy Van Oosten and our directors, officers, agents, employees, subsidiaries, and affiliates from any actions, claims, losses, damages, liabilities, and expenses including legal fees arising out of your use of our Site or your violation of these Terms and Conditions.

Applicable Law

These Terms and Conditions are governed by the laws of the State of Victoria.

Severability

If at any time any of the provisions set forth in these Terms and Conditions are found to be inconsistent or invalid under applicable laws, those provisions will be deemed void and will be removed from these Terms and Conditions. All other provisions will not be affected by the removal and the rest of these Terms and Conditions will still be considered valid.

Changes

These Terms and Conditions may be amended from time to time to maintain compliance with the law and to reflect any changes to the way we operate our Site and the way we expect users to behave on our Site. We will notify users by email of changes to these Terms and Conditions or post a notice on our Site.

Contact Details

If you have any questions or concerns, please contact us through the feedback form available on our Site.

Release of Liability

When signing up to a coaching or fitness and health service or programme, the following Release of Liability will be provided to sign and retain for your records within the Everfit Coaching App.

You agree to and acknowledge the following:

I wish to participate in the activities and programs of Wendy Van Oosten, known as Strong Beyond 50 and Coach Wendy Maree (hereinafter referred to as Wendy Van Oosten). In consideration of Wendy Van Oosten agreeing to provide coaching, health, and fitness activities and programmes, I release Wendy Van Oosten, its employees and representatives from any and all responsibilities or liability from injuries or damages resulting from or ancillary to my participation in any activities or my use of the equipment.

I understand and am aware that the activity which I am about to undertake is at times dangerous and strenuous and that while participating, I may be exposed to certain risks and I voluntarily participate with full knowledge that there is a risk of personal injury (physically or mentally), property loss, or death, and my personal property may be lost or damaged. I further declare myself to be physically sound and suffering from no condition, impairment, disease, or other illness that would prevent my participation in the exercise programmes or use of equipment.

If I have any existing medical condition, physical handicap, or ailment which may militate against my engagement in any of my prescribed exercise formats, I acknowledge I am legally bound to disclose such conditions/s to Wendy Van Oosten. I acknowledge that I have been informed of the need for a physician's approval for my participation in any exercise or fitness activity or in the use of exercise equipment. I also acknowledge that it has been recommended that I have a yearly or more frequent physical examination and

consultation with my physician as to physical activity exercise and use of exercise and training equipment, so that I might have his/her recommendations concerning these fitness activities and equipment use. I acknowledge that I have either had a physical examination and been given my physician's permission to participate, or that I have decided to participate in the activity and use of the equipment without the approval of my physician and assume all responsibility for my participation in activities and utilisation of equipment in my activities.

Other persons participating in such an activity may cause me injury or death or may damage my property. I may cause injury or death to other persons or may damage their property. I agree that neither I, my heirs, assigns, or legal representatives will sue or make any other claims of any kind whatsoever against Wendy Van Oosten or its clients for any personal injury, property damage or loss, or wrongful death, whether caused by negligence or otherwise.

All information provided by Wendy Van Oosten outside of her scope of practice is in the nature of general advice and should not replace the recommendations of the appropriate medical practitioners. In such an event I agree to consult my doctor as to whether it would be advisable for me to engage in the prescribed format.

I agree to use the recommended software used by Wendy Van Oosten; I acknowledge downloading it is at my own risk. I have obtained the necessary anti-virus software to prevent any unwanted bugs, viruses or hacking through the use of these programs and apps.

I acknowledge that I have carefully read this form and fully understand that it is a release of liability. I expressly agree to release and discharge Wendy Van Oosten from any and all claims or causes of action and I agree to voluntarily give up or waive any right that I may otherwise have to bring a legal action for personal injury or property damage. I agree to undertake the services of Wendy Van Oosten at my own risk.

I acknowledge and agree that no warranties or representations, either express or implied, have been made to me by Wendy Van Oosten or any representatives regarding the results I may achieve from any coaching or programme conducted by Wendy Van Oosten. I understand that results are individual and may vary. Weight Loss is multi-factorial and largely depends on medical, lifestyle, and health factors including Nutrition, Gut Health, Sleep, Recovery, Stress Management, and Incidental Activity.

Effective date 8th day of July 2024