The Ostomy Studio

Terms & Conditions Under Which We Supply Our Services

Version Dated: 26th June 2024

IMPORTANT NOTICE
PLEASE READ THIS DOCUMENT CAREFULLY AS IT HAS LEGAL IMPLICATIONS FOR YOU

1. Why this document is important

a. By using our Website, videos, workshops and other digital and online training, exercise and workout presentations (inter-active and otherwise), online or in person 1:1 sessions, pre-recorded videos and/or other Services as offered through our Website from time to time, you agree that the terms and conditions in this document (referred to as the 'Terms') will form part of every Contract you enter into with us.

b. We reserve the right, at any time and at our sole discretion, to change, modify, add or remove any provisions of (i) these Terms (ii) what we offer by way of and within the Services and (iii) our fees. You should therefore check the then current Terms as well as our Website each time you wish to purchase a Service from us.

c. By purchasing any of our Services after we post any changes to these Terms or our fees or otherwise notify you of any other changes, you agree to accept those changes, whether or not you have reviewed them. If you do not agree to these Terms or any amendment to them then you should not apply to use our Services without discussing the matter with us beforehand.

d. All Services supplied to you will be supplied under a legally binding Contract which will include these Terms as amended from time to time.

e. Each time you buy or renew a Service (including purchasing a zero-cost Service) you are entering into a new Contract with us. The then current version of these Terms and the then current fees will apply to each such individual Contract.

f. By applying to use any of our Services you will be deemed to have read, understood, and agreed with the Terms.

2. Acceptance of orders from you

a. An application by you to purchase Services from us (including zero-cost Services) will constitute an offer to purchase. We may at our sole discretion decline to accept your offer and are not obliged to explain our reasons.

b. Our Services are designed specifically for people with stomas, taking into consideration current published guidelines [Refs 6,21] Those with other conditions should not use the Services without our express, informed, prior approval.

3. About us

The Ostomy Studio is a trading name of Sarah Russell of *Farmside House, Towngate Farm, Tidebrook East Sussex TN5 6PE* who can be contacted at *sarah@theostomystudio.co.uk* and Tel: +44 7900 825836.

4. Important definitions

a. Please refer to the Schedule below for important definitions used in this document (like Terms, Contract and Services).

b. Clause, Schedule and paragraph headings shall not affect the interpretation of this document.

5. When and how Services are provided

a. Other than in respect of pre-recorded videos and presentations, our Services are available only by prior appointment on Mondays to Fridays (public holidays in England excluded) unless otherwise agreed in writing.

b. Most services are delivered online. It is your responsibility to ensure that you have an adequate computer, internet connection, camera, speaker, and microphone.

c. You acknowledge that the Services are primarily being provided by a single individual who may become ill, need vacations or have other pressing calls on her which may at times limit her ability to provide the Services. For these reasons and, otherwise, we retain the right at our sole discretion to deny or suspend access to any or all of the Services to anyone, at any time and for any reason, without liability or the requirement to provide reasons save for refunding fees paid to us for Services not delivered.

d. Services will be delivered via a secure video link (using Zoom or similar which is password protected). You must ensure that your video/camera set up is adequate to enable clear vision and audio of the instructor, and (in the case of a live class) that the instructor can see you clearly.

e. Pre-recorded videos are also available which can be watched and completed at any time. If purchasing that Service then you agree to ensure that you have adequate screen set up and clear audio so that you can see and hear instructions at all times.

f. Accessing the Services via mobile phone or tablet is not recommended and you do so entirely at your own risk.

g. Pre-recorded Services can be accessed at a time of your choosing (subject to availability).

h. Live Services are provided by way of one-time delivery. Classes may be recorded for internal review purposes only. They will sometimes be available to a participant who is unable to attend a live class and has requested a recording. Pre-recorded Services can be viewed at any time providing you have a current subscription. Accessing pre-recorded services without a current subscription fee constitutes a new Contract and the then applicable fee is payable immediately.

6. Your terms and conditions (if any)

a. We do not accept any terms and conditions affecting the provision of Services proposed by you unless expressly agreed in writing by us.

b. In the unlikely event that any terms and conditions proposed by you are deemed to have legal effect then, to the extent that they contradict or may contradict anything in the Terms, then the Terms shall have priority.

7. Our right to make changes

a. We reserve the right to make changes to any Service and the fee we charge for them at any time and from time to time without prior notice because the Services are undergoing continuing development and enhancement and will change over time to reflect that.

b. If we make significant changes to any Services that you have booked but not yet received, then you will be entitled to a full refund if the nature of the changes affects the purpose, delivery time or intended outcomes of the relevant Service.

8. Your right to cancel a Service

a. We will not provide any refund if you cancel any Service involving a live class, presentation, workshop or other live interaction with us without providing at least 24 hours' prior notice. After that time, you will be liable to pay the full fee due. We may offer you a transfer to another class date and time. Refunds and transfers are solely at our discretion.

b. We will not provide any refund if you cancel any pre-recorded Service (including zero-cost Services). You are provided with an example taster to assess whether or not the Service is appropriate for you. After that point, you are required to pay the purchase fee. Refunds and transfers are solely at our discretion.

c. Unless you are cancelling under clause 7b above or because of a force majeure event (see clause 18 below) then if we fail to provide a Service (zero-cost Services excluded) when you were ready, willing and able to receive it at the time specified for delivery and we were unable to deliver (subject always to any force majeure event, see below) then you have the option of rescheduling the Service to a time and date to be agreed or receiving a refund.

9. Use of the Services by you and your reliance on them

a. We are not medical practitioners and so provide no medical care or advice. Your doctor should be the only medical advisor whose advice you follow. We stress again – we are not medical practitioners.

IMPORTANT: Medical Risk

b. Whilst Pilates based exercise is generally appropriate for most people (including those with a stoma), there always exists a possibility of injury when exercising arising from an underlying medical condition. These include (without limitation) abnormal blood pressure, fainting, heart rhythm changes, heart attack, stroke, and muscular skeletal injury, including hernia. Whilst we shall attempt to reduce the risks associated with exercise (through pre-assessment for live classes, observation during online video classes and the provision of clear and precise instructions) YOU ACKNOWLEDGE THAT: **i.** the said risk cannot be removed; **ii.** we are not responsible for diagnosing and responding to

such underlying conditions; **iii**. Services delivered online do not allow the instructor to observe your participation as thoroughly as a face-to-face class; **iv**. a negative response to exercise because of an underlying medical condition is not our responsibility and we cannot guarantee that no such response will occur; **v**. for the avoidance of doubt that hernias may occur during exercise, but not be caused by that exercise.

c. The above said medical risk is also present when you choose to use pre-recorded videos however, the risk is inevitably greater because you will be exercising without supervision from an instructor. Whilst we attempt to reduce such risk through appropriate teaching, safe progression of exercises and clear instructions for execution of exercises and safety/appropriateness of each exercise, you acknowledge that there is a heightened risk because you exercising without instructor supervision and you agree to take responsibility for any such risks incurred.

d. You will be required to watch the *'Principles and Preparation' and any introduction videos prior to commencing ANY video or class. This is a safety video explaining the principles of Pilates based exercise. Having reviewed both that video and any disclaimers and/or warnings shown before any Service is delivered, you agree that you will not take such Service if you feel at risk and/or have not watched the video and/or have not read and understood the disclaimer.*

e. The Services are provided solely as a non-critical support to assist you with your efforts to enhance your personal fitness following medical treatment.

f. The Services are not health care services and are not supplied as an integral part of your medical treatment, nor as an alternative to any medical treatment.

g. You agree that you participate in any class or video or use any other Service at your own risk and that that risk remains with you notwithstanding your following any advice or recommendations from us or taking advice about topics related to exercise rehabilitation, movement, Pilates, exercise training or any other related topic.

10. About relying on the Services

a. We do not give medical advice or diagnosis and so no information given in the context of providing the Services may be construed as providing the same. You may not rely on any information or opinions expressed as part of the Service or on our Website or in other literature from us for any medical purpose, including but not limited to mental well-being or other health or diagnostic purposes. The Services are not provided as healthcare. They are primarily exercise-orientated in purpose and you should always consult a doctor if you feel using the Services may affect you adversely. Although we will review your suitability to partake in our Services, that review is merely for our own internal purposes and it should not be taken by you as any form of confirmation or guarantee that the Services are appropriate for you – only you can determine that both before and during your use of the Services.

b. We give no guarantees or assurances as to any successful or any particular outcomes from your use of our Services, even if such a requirement or expectation was made known to us in advance.

c. In all instances it is your responsibility to evaluate the accuracy, timeliness, completeness, or usefulness of our Services. We do not endorse or warrant, and are not responsible for, the accuracy, timeliness, completeness, or reliability of any opinion, advice, or statement describing or made as part of the Services and you should not rely upon the same in any situation of importance.

d. The Service may contain links to other websites or third-party services. We do not operate or control or regularly monitor, in any respect, or endorse the content found on any third-party

websites or services. You assume sole responsibility for your use of third-party links, websites, products and services.

e. You agree that you will:

i. use the Services solely for your own personal, non-business, use. You will not download, stream, sell, copy, duplicate, rebrand, assimilate into other content, rent, lease, loan, distribute, transfer, or sublicense any the Services, or otherwise permit any third-party to use or have access to the Services for any purpose (except as expressly permitted by us in writing) or in any way create a derivative work based upon the Services; **ii.** not remove from, alter or add to any copyright, trademark, patent, ownership or other proprietary notices in the Services or any content in the Services; **iii.** not distribute, publish, repost, Tweet, exhibit, stream, promote, host, copy, transmit or otherwise use the Services, in any manner and for any purpose not expressly permitted under these Terms;

m. You will ensure that all information supplied by you to us, especially with regard to medical matters will be true, accurate, current and complete.

n. You keep us informed at all times of your relevant (or potentially relevant) medical history and update us as to any new developments, treatments and physical and mental issues which may impact on your use of any of the Services or the level of risk to you when accessing Services.

o. You must provide accurate information.

11. Fees

a. Most of our Services are available only to persons who have purchased them. Without payment in advance we reserve the right to stop, withhold or delay provision of the Services at our sole discretion. This right extends to zero-cost Purchases.

b. Unless expressly stated otherwise, all fees quoted by us are exclusive of any value added tax or other sales tax that may be payable from time to time.

c. You agree to pay, using a valid credit card (or other form of payment which we may accept from time to time), the then applicable fees for each Service as set out on our Website at the time of application. You also agree to pay any applicable taxes (including VAT), and other noted charges in order to access the relevant Services.

d. We reserve the right to increase fees and/or charges, or to institute new fees and/or charges at any time, upon reasonable advance notice communicated to you through revision of these Terms or the terms on our Website (or in other informational literature) or by such other means as we may deem appropriate from time to time (including electronic mail or conventional mail).

e. In addition to our fees and charges, you are responsible for all charges and fees associated with connecting to and using our Services including without limitation all telephone access lines (including long-distance charges, when applicable), internet service provider fees, telephone and computer equipment, sales taxes and any other fees and charges necessary to access our Services.

f. Unless stated otherwise elsewhere in these Terms, you agree that all fees and charges imposed by us are non-refundable if your cancellation of Services is due to matters other than our breach of Contract, gross error or negligence.

g. We are entitled to set-off sums due or owing under one Contract against another.

12. Risk

a. Other than in respect of personal injury or death caused by our negligence or fraud on our part, you also acknowledge and agree that your use of the Services shall be at your sole risk and responsibility.

b. If at any time you have grounds to question your suitability to exercise/participate in any Services then as well as telling us, you will seek medical advice from your doctor before using the Services further.

13. Technical Difficulties

a. We cannot always foresee or anticipate IT, internet, technical or other Service delivery difficulties which may result in failure to provide the Services or provide them to a satisfactory level. We do not assume any responsibility for the timeliness, accuracy, usability, non-delivery or failure to supply Services as the result of such difficulties. In the event that they occur through no fault of yours (force majeure situations excluded) then our sole liability to you shall be to reschedule or if at our sole discretion that is inappropriate then refund any fees paid by you.

b. It is your responsibility to ensure that your own equipment, internet connection and other essential facilities are able to receive the Services properly. We do not offer IT support or consultancy services and you should not rely on any commentary we make in such respect.

c. We make no guarantee that any particular Service will always be accessible.

d. While we make efforts to keep our data secure, we make no guarantee that our databases or Services will not be hacked, shut-down, or damaged by malicious third parties. While we strive to keep our Services running, we cannot guarantee that our Service or any of them will not go down or become inaccessible. If it does/they do then your sole remedy shall be the rescheduling of the Services.

14. Disclaimer of liability

a. Other than in respect of loss resulting from death, personal injury or fraud in respect of which our liability is unlimited, to the fullest extent permitted by law, in no event shall we or our employees and agents be liable for any special, indirect, incidental, consequential, punitive or exemplary damages, costs or losses arising out of or relating to your use of the Services or any other interactions with us, even if we have been advised of the possibility of such damage. This limitation of liability applies whether the alleged liability is based on contract, negligence, recklessness, professional negligence, tort, strict liability or any other basis or legal theory.

b. Such limitation of liability shall apply whether or not the damages arise directly or indirectly from: (i) the use or misuse of, or reliance upon, the Services; (ii) the inability to use the Services for any reason, including, without limitation, from mistakes, omissions, interruptions, errors, defects, delays in operation, or any failure of performance not limited to acts of God, communication failure, theft, or destruction; (iii) the interruption, suspension, or termination of the Services. Such limitation on liability shall apply notwithstanding any failure of essential purpose of any limited remedy and to the fullest extent permitted by law.

c. Without limitation of the foregoing in clauses 14(a) and (b), our total liability together with that of our employees and agents for any reason whatsoever related to your use of the Services or any claims relating to any Contracts shall not in aggregate exceed the amounts, if any, paid by you to us in respect of the Services to which your claim (if any) relates.

d. We make no representations that the Services are appropriate or available to access uninterrupted by you.

e. We shall not be liable to you for any claim arising out of any error, inaccuracy or omission in any documentation/written or oral information supplied to you by us.

15. Privacy and data protection

a. We are deemed a data controller and so responsible for any of your personal data that we receive from you.

b. Sarah Russell is our data privacy manager. If you have any questions about this privacy notice or our data protection practices then please contact her at Farmside House, Towngate Farm, Tidebrook Wadhurst East Sussex TN5 6PE or sarah@theostomystudio.co.uk (please note we do not deal with privacy or data protection matters by phone).

c. We may collect, use, store and transfer different kinds of personal data about you as follows:

d. You acknowledge that we need to collect various pieces of sensitive personal data (e.g. about your current health and previous medical issues). You consent to our contacting you, gathering, storing and using this data to provide the appropriate Services to you. Given the long-term nature of the medical issues most of our clients have, we will keep such sensitive data for up to seven years after that last of the Services Contracted for have ceased to be delivered.

e. We use different methods to collect data about you: for example, through our Website, by telephone, through you completing forms, via visual link over the Internet and by email. These are just examples as we have to be flexible given the health constraints to which our clients are often subject.

f. You hereby confirm that you give permission for us to contact your GP, other doctors, consultants or any other health care professionals if you reasonably think it necessary and you agree to your medical information being shared with health care professionals if necessary.

g. The data we collect about you is:

Identity data.
Contact data.
Financial data.
Medical data.
Treatment history data.
Transaction data.
Technical data.
Profile data.
Usage data.
Marketing and communications data.

h. We will only use your personal data for the purpose for which we collected it, namely to provide the Services and the following:

To register you as a new client.
To process and deliver the Services you have purchased.
To understand your health and well-being situation to enable us to supply appropriate Services.

To manage your relationship with us.
To enable you to participate in Services related activities.
To improve our Website, Services, marketing or client relationships.
To recommend products or services which may be of interest to you.

How we share your personal data

i. We may share your personal data with your doctor and other health advisors and your identity may become known to other clients if you participate in any group activities.
International transfers

j. We will not transfer, store, or process your personal data outside the European Economic Area. However, we cannot guarantee the same in respect of any third-party internet service providers and owners of apps such as Zoom, etc. that we need to use to deliver the Services to you online.
Your legal rights

k. Under certain circumstances, you have rights under data protection laws in relation to your personal data including the right to receive a copy of the personal data we hold about you and the right to make a complaint at any time to the Information Commissioner's Office, the UK supervisory authority for data protection issues (www.ico.org.uk).

16. No warranties

a. Other than statutory warranties (e.g. those relating to fitness for purpose and providing the Services as described), the Services are provided to you on an “as is” and “as available” basis, without warranty or representation of any kind.

b. To the fullest extent permitted by law, we expressly disclaim all other warranties, whether express, implied, statutory or otherwise and without limiting the foregoing, we do not warrant the accuracy, reliability or completeness of any information provided by us in connection with your use of the Services, or that any particular Service will meet your requirements or be available, uninterrupted and error-free and secure.

c. No advice or information, whether oral or written, obtained by you from us or through or from the Services shall create any warranty not expressly stated in these Terms. We take no responsibility and assume no liability for any content that you or any third party submits, posts or incorporates into a Service.

d. All Services or any Service may not always be available.

17. Interaction with other Service users and confidentiality

a. You are solely responsible for all your interactions with other users of the Services. We reserve the right, but have no obligation, to monitor any disputes between you and any other user of the Services and to take such actions as we think appropriate regarding further delivery of/access to the Services to you and/or them.

b. There may be times during the provision of the Services when other participants in a jointly delivered Service discuss matters of a private nature. You agree to treat such information as strictly confidential.

18. Force majeure

Neither you nor we shall be in breach of a Contract nor be liable for delay in performing, or failure to perform, any of our respective obligations under it if such delay or failure result from events, circumstances or causes beyond the reasonable control of the defaulting party. In such circumstances the time for performance shall be extended by a period equivalent to the period during which performance of the obligation has been delayed or failed to be performed. If the period of delay or non-performance continues for four (4) weeks, the party not in default may terminate the relevant Contract by giving seven (7) Working Days written notice to the defaulting party.

19. Severability

If any part of the Terms are deemed invalid or unenforceable or contrary to applicable law, such provision shall be construed, limited, or altered, as necessary, to eliminate the invalidity or unenforceability or the conflict with applicable law, and all other provisions of your Contract(s) with us shall remain in full force and effect.

20. No Assignment or transfer or offering Services to anyone else

a. Our Services are provided to you personally. We are therefore under no obligation to supply them to or via any other person.

b. You may not assign or transfer your Contracts with us or any rights or obligations under them without our prior written consent. Any such attempted assignment or transfer will be null and void and we, in our sole discretion, shall have the right to immediately terminate the relevant Contracts without refund.

c. You agree not to share any video link, password or downloaded copy of a class or video or other Service with anyone else.

21. Communications

You agree that we may communicate with you electronically. Such electronic communications may consist of e-mail, notices posted on our Website or through the Service, mobile phone notification, text and other social media messaging and other communications. You agree that all agreements, notices, disclosures, and other communications we send to you electronically will satisfy any requirement that such communication be in writing and, to the extent intended, such communication will be an enforceable and binding term or amendment to your relevant Contracts with us.

22. Entire agreement

The Terms set forth the entire understanding and agreement between us relating to its subject matter. All provisions that should by their nature survive the termination of our Contracts with you shall survive expiration including, without limitation disclaimers and limitations on liability. Any waiver of or promise not to enforce any right under a Contract shall not be enforceable unless evidenced by a writing signed by the party making said waiver or promise.

23. Third party rights

Unless expressly stated otherwise, these Terms do not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 or otherwise to any third parties to enforce any term of this any Contract.

24. Governing law and jurisdiction

Your Contracts with us, and any disputes arising out of or in relation to them, shall be governed by the laws of England & Wales.

Any dispute with us or our employees or agents arising under or in relation to a Contract shall be resolved exclusively through the Courts of England.

SCHEDULE

Contract	means	Each separate legally binding contract you enter into with us each time you purchase or renew a Service.
Our/we/us	means	The Ostomy Studio, which is a trading name of Sarah Russell.
Service and Services	means	The videos, workshops and other digital and online training, exercise and workout presentations (inter-active and otherwise), online and in person 1:1 sessions, pre-recorded videos and/or other Services as offered through our Website from time to time
Terms	means	The terms and conditions in this document as amended from time to time
Website	means	www.theostomystudio.co.uk
Working Day	means	Monday to Friday in the United Kingdom, but excluding English public holidays.