



## FUNCTIONAL GAMES 2022 WAIVER

### 1. Definitions

In this Waiver:

“Activities” means any physical activities facilitated by PLC or Functional Games.

“Applicant” and “I” and “you” means the person completing the Application and applying to be a member of PLC and Functional Games and includes the Guardian, where the Applicant is under 18 years of age.

“Content” means all photographs, film, audio, video or other recording, still or moving, taken of the Applicant during the Activities.

“Guardian” means the parent or legal guardian of the Applicant who executes the Application.

“Participant” means any person who takes part in the Activities.

“Services” means the Activities provided by us to Participants.

“State” means Queensland.

“PLC” or “Functional Games” or “us” means Good Vibes Personal Training Pty Ltd trading as PLC Franchising Pty Ltd (ACN 624 738 647), Functional Games Pty Ltd (ACN 625 476 833) and all instructors, agents, servants, contractors and employees.

### 2. Rules

The Applicant agrees to comply with any written PLC or Functional Games rules that may be displayed from time to time or any directions by PLC or Functional Games. Any breach of the rules shall constitute a breach of this Waiver.

### 3. Risk Warning, Waiver and Indemnity

#### ***GENERAL RISK WARNING***

Taking part in the Activities is subject to risks. These include death, serious injury or illness due to overexertion and strenuous activity.

#### ***WAIVER OF LIABILITY***

I have read the general risk warning and am aware that the Activities are recreational activities that can be dangerous, I accept that there is a degree of risk and I acknowledge and agree that participation in the Activities is at my own risk and subject to the terms of this Waiver and Risk Warning (**Waiver**).

I declare that:

1. I am aware that the Activities may involve risk and the safety of the Activity or location is not guaranteed;
2. I am mentally and physically able to participate in the Activities;
3. I understand that I should not participate in the Activities unless I am in good physical condition;
4. I will participate within my skill level and capability during the Activities; and
5. I consent to emergency medical care and transportation in order to obtain treatment in the event of injury to me as medical professionals may deem appropriate.



For the purpose of the **Civil Liability Act** 2003 (QLD), section 139 of the **Competition and Consumer Act** 2010 (Cth) and any other applicable civil liability legislation, I acknowledge that the Activities are 'recreational services' and/or are dangerous and that there is a significant and obvious risk to my health and safety in participating in the Activities. The potential risks include, but are not limited to:

1. death;
2. physical or mental injury (e.g. twists, sprains, broken bones, spinal injury, paralysis);
3. contraction, aggravation or acceleration of a disease;
4. the coming into existence, the aggravation, acceleration or recurrence of any other condition, circumstance, occurrence, activity, form of behaviour, course of conduct or state of affairs;
5. that is or may be harmful or disadvantageous to me or the community; and
6. that may result in harm or disadvantage to me or the community.

I acknowledge, agree and understand that the risk warning in the preceding paragraph constitutes a 'risk warning' for the purposes of relevant legislation. I acknowledge that Functional Games and PLC's liability arising from the Activities is excluded or reduced in so far as is possible as a result of the risk warning.

By signing this agreement, I acknowledge, agree and understand that, to the full extent permitted by law (including by section 139A of the **Competition and Consumer Act** 2010 (Cth) and division 4 of the **Civil Liability Act** 2003 (QLD)):

1. my rights to sue PLC and Functional Games in relation to the Activities, if the Activities or associated services were not provided in accordance with any express or implied warranty or guarantee that the services will be provided with reasonable care and skill, are excluded or alternatively limited to a refund of the cost of the Activities; and
2. I release PLC and Functional Games from all liability for a failure to comply with any express or implied warranty or guarantee that the services will be provided with reasonable care and skill,
3. in so far as the Activities result in my death or injury, but not including significant personal injury caused by Functional Games or PLC's reckless conduct.

### **ADDITIONAL WAIVERS**

In addition to any other releases, exclusions and warranties in this Waiver, to the full extent permitted by law, I (including my heirs, successors, executors, administrators, agents and assigns) agree to waive, release and indemnify Functional Games and PLC in respect of any losses, damages, claims, injuries, liabilities, costs, charges or expenses whatsoever in connection, directly or indirectly, with my participation in the Activities, including without limitation those arising under statute, tort, contract, common law or equity (including for Functional Games and PLC's negligence).

I acknowledge that I do not have to agree to exclude, restrict or modify or waive my rights against, or release, Functional Games, PLC, however the PLC and Functional Games may refuse to allow me to participate in the Activities.



#### **4. Content Release**

The Applicant hereby assigns full copyright of the Content to PLC and Functional Games together with the right and permission to license the Content and/ or to take, use, re-use, publish and re-publish the Content, either separately or together, either wholly or in part, or composite or distorted in character or form, without restriction as to changes, in conjunction with the Applicants own or a fictitious name, or reproductions thereof in colour or otherwise, made through any medium, and in any and all media now or hereafter known, specifically including but not limited to print media and distribution and sale over the internet, illustration, promotion (including through Functional Games and PLC's social media channels such as linkedin, facebook, instagram, tiktok, twitter and EDM to Functional Games and PLC's database), art, marketing and packaging for any product or service, editorial, advertising, trade, or any other purpose (except defamatory).

The Applicant agrees that the Content may be combined with other images, text, graphics, film, audio, audio-visual works; and may be cropped, altered or modified.

The Applicant understands that the Content may be licensed to businesses and individuals nationally and internationally for a fee.

It is agreed that the Applicants personal information (save for the Applicants name and partial address i.e. suburb and state) will not be made publicly available but may only be used directly in relation to the licensing of the Content where necessary (e.g. to defend claims, protect rights or notify trade unions) and may be retained as long as necessary to fulfil this purpose, including by being shared with assignees of PLC.

The Applicant hereby releases Functional Games and PLC (and Functional Games and PLC's assigns) from all claims and liability relating to the Content. The Applicant agrees that they have no rights to the Content, and all rights to the Content belong to Functional Games and PLC (and the Functional Games and PLC's assigns). The Applicant agrees that this release is irrevocable, worldwide and perpetual.

#### **5. Acknowledgement by Parent, Guardian and Supervisor**

Where this Agreement is signed by the Parent/Guardian/ Supervisor of the Participant, the Parent/Guardian/Supervisor consents to the minor's participation in the Activities and provides the acknowledgements and indemnities in this Agreement in its own right and on the Participant's behalf.

#### **6. Severability of Terms and Governing Law**

If anything in this Agreement is unenforceable, illegal or void then it is severed, and the rest of this Agreement remains in force. The terms of this Agreement are governed by the laws of the State and the Courts of the State shall have exclusive jurisdiction to entertain any action in respect of the Agreement.