

Terms of Talent Booking Agreement

Before proceeding, it is imperative that the individual described in the application confirmation (the '**Client**' defined as '**You**' or '**Your**' as the context allows) reads, understands and acknowledges the terms as set out in this document (the '**Agreement**') before clicking the button titled 'I accept the Terms and Conditions' ('**Confirmation**') which will form a binding legal agreement between You and PickStar.

If You proceed with Confirmation, it is Your intention to permit '**PickStar**', '**Us**' or '**We**' (Active Pathways Pty Ltd ACN 150 721 207 trading as PickStar) to facilitate a marketing campaign, social media campaign, guest speaking, corporate event and/or engagement of a similar nature ('**Engagement**'), between You and a current or former elite athlete or sports person or a person who is objectively known as a 'celebrity' (the '**Talent**') as chosen by You from the online Business platform ('**Website**') Talent list ('**Public Engagement List**').

By proceeding with Confirmation, You warrant in favour of PickStar that you:

- a) are 18 years of age or older;
- b) have authority or the valid delegated authority to proceed with Confirmation; and
- c) have read, understood, agreed to and accept all of the terms, conditions and obligations contained in this Agreement and arising as a result of Your Confirmation.

You understand and accept that: given PickStar's facilitatory role in the Engagement, the Talent is not a party to this Agreement, but a third party; and the Engagement itself comprises a separate contract between You and the Talent (and does not include PickStar) as to performance and consideration of that contract.

This Agreement governs Your relationship with PickStar only as to the facilitation of the Talent through the Website ('**Parties**') and insofar as You have an issue and/or dispute with the Talent in connection with the Engagement, this is not a matter to be raised by You under this Agreement and PickStar has no liability to you in respect of the Engagement with the Talent.

1 Registration and Account

1.1 In order to use the Website (or certain features thereof) You may be required to create an account ('**Account**').

1.2 You acknowledge and agree that:

- 1.2.1 all the information provided in creating an Account is correct, complete and accurate (and not misleading or deceptive in any way) ('**Registration Details**'); and
- 1.2.2 if the Registration Details change at any time, it is Your responsibility to access the Website and update Your Registration Details as necessary to remain in compliance with Your obligations under this Agreement.

1.3 PickStar reserves the right to terminate this Agreement effective immediately if any Registration Details are found to be inaccurate, incomplete, misleading and/or not

current.

- 1.4 You acknowledge that PickStar may use and process the Registration Details for the purposes of managing Your Account.
- 1.5 As part of creating Your Account, You are required to select a password. You acknowledge and agree that maintaining the confidentiality of the password associated with Your Account is solely Your responsibility.
- 1.6 You agree to notify PickStar immediately of any unauthorised use of Your Account or any other breach of security including the dissemination of Your Account password.
- 1.7 PickStar accepts no liability for any loss incurred by You as a result of any third party or unsanctioned access to Your Account, either with or without Your knowledge.
- 1.8 You acknowledge that You may be held liable for losses incurred by PickStar and/or any other party (including Talent) as a result of a third party accessing Your Account.
- 1.9 PickStar's use of Your Registration details and other information associated with Your Account is set out in the associated [Privacy Policy](#).

2 Fees

- 2.1 The monetary fee as outlined in the Engagement booking (**'Engagement Fee'**) is the fee You are required to pay for the Engagement, exclusive of Goods and Services Tax (**'GST'**).
- 2.2 You will be required to pay any GST in addition to the Engagement Fee.
- 2.3 By proceeding with Confirmation, this signifies Your acceptance of the Engagement Fee as outlined.

3 Time for Payment

- 3.1 You agree to pay the Engagement Fee (time being of the essence in all material respects) in the following manner:
 - 3.1.1 the first half of the Engagement Fee (initial 50% payment) must be paid within seven (7) days of Confirmation; and
 - 3.1.2 the second and final half of the Engagement Fee (second and final 50% payment) must be made no later than seven (7) days prior to the date of the Engagement (**'Engagement Date'**).
- 3.2 However, if the Engagement Date is within seven (7) days of Confirmation, payment of the Engagement Fee in its entirety must be paid immediately.
- 3.3 You acknowledge that the Engagement is only confirmed and booked by PickStar once payment in accordance with either **clause 3.1.1** or **clause 3.2**, as the situation may be, is made to PickStar. If payment is not forthcoming by You in accordance with this **clause 3**, You acknowledge that the Talent may accept other booking requests and the prospective engagement may be terminated. Any such termination will be treated

as a cancellation of the Engagement by You and handled in accordance with **clause 4**.

3.4 Payment of any kind as referred to in this **clause 3** is to be made by electronic funds transfer ('**EFT**') or via credit card medium through the Website as and when directed by PickStar upon Your Confirmation.

3.5 PickStar will forward the Engagement Fee (less any commission as agreed between PickStar and the Talent) to the Talent following Your confirmation that the Client attended the Engagement.

4 Client Cancellations

4.1 If You cancel Your Engagement for any or no reason:

4.1.1 more than seventy two (72) hours before the Engagement Date, PickStar will (subject to clause 3.2) retain half of the Engagement Fee (50% paid) and You authorise and release those funds to PickStar by way of this Agreement; or

4.1.2 within seventy two (72) hours before the Engagement Date, PickStar will retain the entirety of the Engagement Fee (100% paid) and You authorise and release those funds to PickStar by way of this Agreement.

4.2 If the Engagement Date falls on or about a public holiday, during a period of sporting finals and/or during any other period of high Talent request ('**Request Period**')

4.2.1 PickStar will notify You by email that Your Engagement Date falls within a Request Period; and

4.2.2 if You cancel the Engagement falling within a Request Period more than seventy two (72) hours before the Engagement Date, PickStar will retain the entirety of the Engagement Fee (100% paid) and you authorise and release those funds to PickStar by way of this Agreement.

5 Talent Cancellations

5.1 You warrant in favour of PickStar that You accept that:

5.1.1 the Talent, as chosen by You, may for any reason become unavailable or unable to attend the Engagement and that We accept no liability or responsibility of any kind for the Talent's cancellation and/or failure to attend;

5.1.2 in this circumstance, We will use reasonable endeavours to arrange a talent in substitution ('**Alternative Talent**') to attend the Engagement;

5.1.3 if Alternative Talent can be agreed upon by You and Us, You will be deemed to enter into a new Engagement directly with that Alternative Talent, in the manner described for Engagements of Talent generally in this Agreement; and

5.1.4 if no Alternative Talent can be agreed upon by You and Us (or facilitated by Us), We will refund to You the full amount of the Engagement Fee You had paid prior to the cancellation.

5.2 We accept no liability or responsibility whatsoever for any damage or cost You may incur:

- 5.2.1 as a result of Talent cancellation;
- 5.2.2 the state in which the Talent attends the Engagement; or
- 5.2.3 any statements or actions made by the Talent at the Engagement.

6 Promotion & Advertising

- 6.1 You must not use any biographical or any other information about the Talent to promote the Engagement unless PickStar has granted You prior written consent to do so. Subject to such consent, You may only use biographical or any other information about the Talent that has been supplied by PickStar.
- 6.2 Any promotional materials You intend to use in promoting the Engagement must be submitted to PickStar for approval, prior to implementation and/or distribution. PickStar will not accept any promotional material which includes any licensed imagery and/or connotation.
- 6.3 It is Your responsibility to ensure no portion of the Engagement is recorded in any permanent form, which captures the Talent's appearance, if PickStar has not granted You prior written consent to do so.
- 6.4 Your use of permanent recordings for promotional or commercial purposes also requires prior written consent by PickStar.
- 6.5 If You fail to comply with the requirement of consent in any provision under this **clause 5**, PickStar accepts no liability or responsibility whatsoever for damage, loss or liability arising out of Your advertising or dissemination of content related to the Talent and/or in contravention of any pre-existing sponsorships, agreements or arrangements the Talent may have (and You indemnify and fully hold harmless PickStar against any loss or damages sustained by You in connection with either Yours or the Talent's breach of this **clause 5**).

7 The Engagement

- 7.1 If You agree to an Engagement with Talent:
 - 7.1.1 a separate and distinct contract is formed between the Talent and the Client on the terms of the Engagement (which does not have PickStar as a party to it);
 - 7.1.2 You agree and undertake to only contact the Client through the online chatroom between You and the Client as facilitated on the Website ('**Chatroom**'), for the purposes of agreeing to any further commercial terms of the Engagement;
 - 7.1.3 the terms of the Engagement, as to be agreed between You and the Talent on the Chatroom only, will remain the terms of the Engagement once confirmed, and You will not ask the Talent to do any act which is not agreed to prior to the

Engagement Date

7.2 It is Your responsibility to ensure the venue in which the Engagement is held ('**Event Venue**') is safe, fit for purpose and with adequate security.

7.3 PickStar makes no representation as to the state, quality and/or performance of the Talent in attending the Engagement.

7.4 You must not communicate with the Talent in any way:

7.4.1 that is not directly facilitated by PickStar; or

7.4.2 prior to confirmation of the Engagement.

7.5 .You must not use the Chatroom or the Talent's personal information (as provided to You by PickStar) to communicate with the Talent for any other reason/purpose than agreeing, with the Talent, to the terms of the Engagement.

7.6 You acknowledge that PickStar may use Your Engagement and associated material such as photographs and video recordings for advertising purposes ('**Case Study**') to promote PickStar on online social media platforms.

8 Acknowledgements

The Client acknowledges and agrees that the Client is responsible for making inquiries in respect of:

8.1 the quality, reputation and activities of Talent; and

8.2 the value, quality, safety, security and nature of an Engagement, and releases and holds PickStar harmless against any loss in connection with the subject matter of this **clause 8**.

9 Representations & Warranties

9.1 Each Party warrants to the other that it has all necessary authority to enter into and perform its obligations under this Agreement without the consent of any third party and in doing so, would not be in breach of any contract or agreement with any third party.

9.2 PickStar makes no representations or warranties:

9.2.1 as to the quantity, quality, reputation and activities of Talent;

9.2.2 as to the value, quantity, quality, safety, security and nature of Engagements; and

9.2.3 that Your use of the Website will be uninterrupted, timely or free from error.

9.3 The Client represents and warrants in favour of PickStar that:

9.3.1 in communicating with Talent via the Chatroom and at Engagements, the Client

and its personnel shall conduct themselves in a proper, professional and workmanlike manner (and will otherwise not engage in any defamatory, sexist or racist communications);

9.3.2 it will not issue any unlawful or otherwise inappropriate directions to Clients; and

9.3.3 no action shall be taken, allowed, or conducted in any manner that would or could potentially cause damage to PickStar's reputation.

10 Client Restrictions

The Client must not:

10.1 make any communication with Talent:

10.1.1 that is not directly facilitated by PickStar;

10.1.2 prior to confirmation of an Engagement; or

10.1.3 for reasons other than to confirm the material terms of the Engagement;

10.2 communicate with Talent following an Engagement, for the purposes of organising a future engagement (unless that new potential future engagement is facilitated solely through PickStar);

10.3 access and/or engage in any use of the Account or the Website itself:

10.3.1 in any manner that abuses, seeks to reverse engineer or materially disrupts PickStar's networks, security systems or Website; or

10.3.2 to communicate to a Client in a manner that is not in accordance with this Agreement or otherwise is threatening, deemed as harassment, indecent, obscene, slanderous, or unlawful in any way;

10.4 use the Website for fraudulent or illegal purposes;

10.5 make any representations with respect to (or on behalf of) PickStar or this Agreement;

10.6 use web-accelerated browsers or products (including but not limited to NetJet, NetSonic, MSIECrawler and Teleport-Pro), or other applications that are capable of copying large portions of text, information, data, graphics and all other protectable intellectual property contained on and available through, the Website ('**Protected Content**');

10.7 use robots and crawlers, or similar technology on the Website;

10.8 use any device, software or routine or the like to interfere or attempt to interfere with the Website functionality;

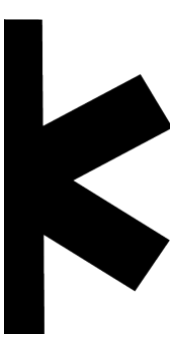
- 10.9 take any action that imposes an unreasonable or disproportionately large load of data on the Website and/or its infrastructure;
- 10.10 use any Client details provided through an Engagement for purposes outside of the Engagement;
- 10.11 access the Website by any means other than through the Website interface, or access or attempt to access any area of the Website to which access is not authorised;
- 10.12 modify, distribute, prepare derivative works of, reverse engineer, reverse assemble, disassemble, decompile or otherwise attempt to discover any source code relating to the Website, Protected Content and/or any other aspect of PickStar' technology, except to the extent that such activity is expressly permitted by law;
- 10.13 rearrange, reverse engineer or modify the Protected Content; or
- 10.14 create abstracts, scrape or display headlines, from the Protected Content for use on another website or service or use the Protected Content for commercial purposes, including without limitation algorithmic trading programs.

11 Indemnity & Release

- 11.1 You agree to fully indemnify (and forever hold harmless) PickStar:
 - 11.1.1 against any loss, damage and/or liability that PickStar suffers or incurs, whether financial or reputational, because You breach any term, or do not perform any obligation, under or in connection with this Agreement; and
 - 11.1.2 against any loss, damage and/or liability that PickStar suffers or incurs arising out of Your conduct (or a Talent's conduct) at an Engagement.
- 11.2 You agree to forever and fully release PickStar:
 - 11.2.1 from any and all liability arising out of the conduct of the Talent at the Engagement; and
 - 11.2.2 from any and all liability arising out of Your communication, in any form, with the Talent.
- 11.3 The Client acknowledges that PickStar, through the Website, provides a facilitatory Service and that any Engagement is between the Client and Talent, and the Talent (and not PickStar) will be liable in all respects for performing the Engagement.

12 Confidentiality

- 12.1 Subject to **clauses 12.2 and 12.3**, neither Party shall disclose to any third party any information in any form which relates directly or indirectly to PickStar of a Party or Party's past or future business, operations, administration or strategic plans ('**Confidential Information**'), nor use such Confidential Information in any manner other than to perform its obligations under this Agreement, without the prior written consent of the other Party.



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12.2 **Clause 12.1** shall not apply to any Confidential Information that:

12.2.1 is publicly disclosed through no fault of either Party;

12.2.2 is already lawfully in a Party's possession and not subject to a confidentiality obligation as set out in this **clause 12**;

12.2.3 becomes known to a Party from a third party having an apparent bona fide right to disclose the Confidential Information;

12.2.4 as a matter of necessity, must be disclosed to Talent by PickStar in order to facilitate an Engagement; or

12.2.5 is Confidential Information that a Party is obliged to produce pursuant to an order of a court of competent jurisdiction or by law, provided the Party supplies the other Party timely notice of such requirement for disclosure.

12.3 The Parties may disclose the contents of this Agreement to their advisors, legal representatives, employees, agents and consultants provided that those parties are aware of the confidentiality requirements as set out in this **clause 12** and strictly comply with them.

13 Mediation

If any dispute arises between You and PickStar, it is to be mediated in accordance with the Australian Commercial Disputes Centre Guidelines for Commercial Mediation ('**Guidelines**'), current at the time of the dispute. The Guidelines are incorporated into this Agreement. Where there is any inconsistency between the Guidelines and this Agreement, this Agreement prevails.

14 Further Assurance

Each Party must promptly at its own cost do all things (including executing and if necessary delivering all documents) necessary or desirable to give full effect to this Agreement.

15 Relationship

You acknowledge and understand that nothing in this Agreement shall be construed as constituting a relationship of employer and employee, master and servant or principal and agent between You and PickStar (and that PickStar is not the agent of the Talent).

16 Severance

If any part of this Agreement is, or becomes void or unenforceable, that part is or will be severed from this Agreement, with both Parties agreeing that all parts that are not, or do not become, void or unenforceable remain in full force and effect and are unaffected by that severance.

17 Entire Agreement

This Agreement and the contracts, agreements and arrangements contemplated by or referred to in this Agreement constitute the entire agreement between the Parties with respect to the

subject matter of this Agreement and contains all of the representations, warranties, covenants and agreements of the Parties in relation to the subject matter of the Agreement as at the Effective Date.

18 No Waiver

- 18.1 A Party's failure or delay to exercise a power or right does not operate as a waiver of that power or right.
- 18.2 The exercise of a power or right does not preclude either its exercise in the future or the exercise of any other power or right.
- 18.3 A waiver is not effective unless it is in writing.
- 18.4 Waiver of a power or right is effective only in respect of the specific instance to which it relates and for the specific purpose for which it is given.

19 Governing Law

This Agreement will be governed by, and interpreted in accordance with, the laws for the time being in force in South Australia and each party submits to the non-exclusive jurisdiction of the courts of, or exercising jurisdiction of, that State, and where applicable the Commonwealth of Australia (Adelaide Registry). Any reference to 'business days' are taken to be references to business days in the Jurisdiction of South Australia.

If You have any questions regarding any term of this Agreement, contact PickStar through Jessica Millowick via email jmillowick@pickstar.com.au, or phone on 0414 641 683, before proceeding with Confirmation.