TERMS AND CONDITIONS

For Personal and Group Trainers
In Wandsworth Parks & Open Spaces
Terms and Conditions for Personal Trainers
In Parks and Open Spaces Managed by Enable Leisure and culture.

1 Introduction
1.1 These Terms and Conditions have been designed by Enable to regulate the use of Parks and Open Spaces for means of operating as a personal trainer (groups and one to one) and other group activities in the Borough of Wandsworth. The Terms and Conditions exist to protect the interests of you the Customer, Enable, Wandsworth Council and other users of/visitors to the parks, commons and other spaces.
1.2 If you have any questions on any of these points, please contact parksPT@enablelc.org or 0203 959 0060.
1.3 Bookings process operates using an application form.
1.4 Interpretation in these terms and conditions:
- “Application” means the application form submitted by the Licensee as varied by any amendment agreed by the Licensee and the Authority or any direction issued by the Authority.
- “Approval” and “Approved” means the written acceptance by the Authority.
- “Authority” means Enable and includes any person nominated to act as the Authority’s Representative such as the Head of Parks, the Park Manager, a Parks and Events Police Officer, etc.
- “Authority’s Property” means the following; trees, shrubs, railings, fences, lampposts, tables, benches, signs, signposts, footpaths, and all other such items located within the Park.
- “Condition” means a condition within these Terms and Conditions.
- “Licensee” means the individual named in the Application.
- “Licence” means the Approved Application and these terms and conditions read together.
- “Licence Period” means the period running from the 1st April to the 31st March inclusive in any year.
- “Park” means the Park, Common or other open space named in the Application
- “Trainer” means individual named on the Licence to carry out the training specified in the Application.

The interpretation and construction of the Licence shall be subject to the following provisions:
- A reference to any statute, enactment, order, regulation or other similar instrument shall be construed as a reference to the statute, enactment, order, regulation or instrument as subsequently amended or re-enacted;
- The headings to Conditions are for ease of reference only and shall not affect the interpretation or construction of the Conditions;
- References to Conditions are references to Conditions in the section of the Terms and Conditions in which they appear, unless otherwise stated.
- Where the context allows, the masculine includes the feminine and the neuter, and the singular includes the plural and vice versa.
- Any notice to be served on the Licensee shall be sent be letter or email to the contact details set out in the Application until the Authority receives written notification of different contact details.

2 Payment
2.1 Each permit is charged individually and prices include VAT. It is important that when making a booking, the applicant must state the locations in which the activity will be taking place.
2.2 The relevant Payment must be made at Battersea Park Millennium Arena, Carriage Drive East, Battersea Park, SW11 4NJ, once the completed application form has been submitted to parksPT@enablelc.org or Parks Office, Battersea Park, London SW11 4NJ., (details of documents required for the application are given below).
2.3 Licences will NOT be issued without all the above documentation and payment.
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3 Refunds & Cancellations
3.1 If the applicant cancels within six weeks of the application a refund will be given but with an administration fee £20 deducted. We must receive written confirmation of cancellation either by letter or email.

4 Registration
4.1 The Licensee must be Approved by the Authority in order to carry out activity sessions in the Park.
4.2 In order to be Approved, the Licensee must have:
4.2.1 Completed the application form in full (including providing a passport sized photograph),
4.2.2 Pay the licence fee and have provided:
   - Current REPS level 3 fitness qualifications or equivalent.
   - Current public liability insurance a minimum of £2million, but a preferred £5m, for a minimum of 3 months, validity at the point of application but to be insured through the Licence Period. It is the Licensee’s responsibility to ensure that they have valid Insurance at all times.
   - Current Risk assessment covering the activities.
   - A demonstratable First Aid procedure and an agreed process for accident reporting to parks@enablelc.org.
   - Enhanced DBS check if training children or vulnerable adults.
4.3 Failure to comply with 4.2 shall entitle the Authority to terminate this Licence in accordance with condition 9.
4.4 The Authority shall be under no obligation to Approve an Application.
4.5 The Authority reserves the right, when approving an Application, or at any time during the Licence Period by giving written notice to the Licensee, to limit the Licensee’s access to the Park.
4.6 Upon Approval of the Application the Authority will provide the Licensee with identification armband(s) which the Licensee must wear at all times whilst carrying out training sessions in the Park and produce upon request by any officer or staff of the Authority, or the Council.
4.7 It is the Licensee’s responsibility to ensure that Trainers carry and wear the identification issued at all times whilst carrying out training sessions. The Authority will charge a replacement fee of £20 for each subsequent replacement of the identifying armband. At the end of the Licence the Licensee must return identification armband to the Authority.
4.8 Following Approval of the Application the Licensee may carry out training sessions in the Park, during the hours which the Park is open to members of the public or as specified in any direction issued by the Authority.
4.9 The Licensee acknowledges that:
4.9.1 This Licence does not guarantee that the Park will be open or that there will be space in the Park for the Trainer to carry out training sessions.
4.9.2 This Licence does not grant a Trainer priority over any other lawful user of the Park and that any pitch bookings, events or booked group activities will take priority over training/activity sessions and the Trainer is expected to relocate to an alternate approved location if a conflict of interest occurs.

5 Duration
5.1 Subject to condition 9, this Licence shall continue until the end of the Licence Period, upon expiry the Licensee may re-apply to be approved for a further year but nothing in this Licence shall imply any obligation on the Authority to Approve a further application.
5.2 It is the responsibility of the Applicant to ensure that all information on the application and the permit is correct. Any change of information must be notified in writing to the Authority.
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6 Licensee obligations
6.1 The Licensee shall, at all times, exercise the rights and duties under this Licence in a proper and responsible way, having regard to the safety of users of the Park the Authority’s staff and other third parties.
6.2 Any equipment used must be hand held only; any equipment used or activities undertaken must not be detrimental to, or cause damage to the Park, the Authority’s Property or any wildlife.
6.3 The Licensee shall ensure that the Authority’s Property is not used for the purpose of fitness training or any other purposes approved by the Licence.
6.4 The Licensee must not leave any equipment or rubbish in the Park following a training session and shall ensure the Park is left in the same condition that it is found. The Authority reserves the right to charge the Licensee the cost of reinstating the Park to its original condition where substantial damage is caused as a result of the training/activity sessions held by the Licensee.
6.5 The Licensee must not cause an annoyance or nuisance or interfere with the reasonable enjoyment of other persons using the Park.
6.6 The Licensee must adhere to and comply with the Authority’s Code of Conduct at all times whilst conducting training sessions within the Park. Map/s showing the areas where licenced training activities are permitted within the Park/s referred to in the Licence will be provided with each Licence. The Licensee shall restrict their activities to these areas alone. The Authority reserves the right to immediately terminate the Licence of any Licensee found conducting their activities in any other part of the Park/s.
6.7 The Licensee shall comply with “The Public Space Protection Order (PSPO) Regulations 2020” and all Byelaws as amended. Copies are obtainable online, on signs within the Park and the Authority’s website. Note: Unauthorised commercial activity and charging of fees for services provided is an offence under the byelaws.
6.8 This Licence does not allow or permit vehicle access into the Park provided that this condition does not prevent the Licensee from parking in any car park within the Park subject to the payment of any parking charges.
6.9 There are no off-street parking facilities at any of the Parks with the exception of Pay and Display parking at Battersea Park and limited facilities at Tooting Common.
6.10 The Licensee shall not display, produce or distribute any sign or advertisement whilst within the Park except to clients undertaking training. The restriction of advertising applies to all boards, hoardings, flags, posters etc. displaying any organisation, company, or brand name of any goods, including those of the Licensee. The Licensee is permitted to wear branded clothing as part of a uniform if they so wish.
6.11 The Licensee must not play amplified music whilst within the Park.
6.12 The Licensee must not collect monies/fees from his clients whilst in the Park.
6.13 The Licensee will not be permitted to distribute business cards whilst in the Park.
6.14 One session shall be deemed as lasting no longer than 90 minutes and / or engaging the same participant(s).
6.15 If the Licensee wishes to conduct additional activities to their usual business then they must seek permission from the Authority to do so prior to any such arrangements being made, carried out or advertised with specific dates, times and locations agreed by the Authority. Additional charges may apply for any such additional related activities. The Licensee must not operate outside of the agreed number of weekly sessions and / or the agreed group capacity size.
6.16 Each party shall notify the other of any health and safety hazards which may arise in connection with the performance of this Licence as soon as they become aware of them.
6.17 While in the Park, the Licensee shall comply with any health and safety measures implemented by the Authority in respect of users of the Park.
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6.18 The Licensee shall notify the Authority immediately in the event of any incident occurring where that incident causes any personal injury or damage to property and if requested by the Authority shall provide a copy of the incident investigation report if appropriate.

7 Independent Operator
7.1 Nothing in this agreement shall be construed as creating a partnership, contract of employment or relationship of principal and agent between the Authority and the Licensee.

8 Indemnity & Insurance
8.1 The Licensee shall throughout the Licence Period maintain public liability insurance of not less than two million pounds (£2,000,000) however a five million (£5,000,000) level is considerably preferred. Copies of insurance documents must be submitted with the Application and a copy of the current policy must be available for inspection by the Authority at any time during the Licence Period upon request.

8.2 The Licensee shall indemnify the Authority fully against all claims, proceedings, actions, damages, legal costs, expenses and any other liabilities in respect of any death or personal injury, loss or damage to property, which is caused directly or indirectly by any act or omission of the Licensee PROVIDED ALWAYS that the Authority shall be at liberty to settle as it may think fit after consultation with the Licensee any such actions claims or demands by payment of such sum or sums as it in his discretion may consider reasonable and it may in his discretion after giving notice in writing to the Licensee cause any such damage to be made good and the expenses incurred by the Authority in doing or in making any such payment shall be repaid by the Licensee to the Authority on demand PROVIDED NEVERTHELESS that the Licensee shall not be required to pay by way of indemnity any sum greater than that which would be reasonably payable in settlement having regard to the circumstances of the case and in particular (where the payment is legally enforceable) to the damages which might be recoverable at common law.

8.3 Subject to clause 8.4, the Authority is not liable for:
8.3.1 the death of, or injury to the Licensee, its Trainers, Activity Leaders, clients, or invitees to the Park; or
8.3.2 damage to any property of the Licensee or that of the Trainers, Activity Leaders, clients, or other invitees to the Park; or
8.3.3 any losses, claims, demands, actions, proceedings, damages, costs or expenses or other liability incurred by Licensee or the Trainer, Activity Leader, clients, or other invitees to the Park in the exercise or purported exercise of the rights granted by this Licence

8.4 Nothing in clause 8.3 will limit or exclude the Authority's liability for:
8.5 (a) death or personal injury or damage to property caused by negligence on the part of the Authority or its employees or agents; or
8.6 (b) any matter in respect of which it would be unlawful for the Authority to exclude or restrict liability.

9 Termination of Agreement
9.1 The Authority may revoke this Licence with immediate effect where the Licensee and/or its Trainer:
9.1.1 is in breach of its obligations under this Licence and, where the breach is capable of remedy, fails to remedy such breach to the satisfaction of the Authority within 7 calendar days of receipt of written notice to remedy the breach.
9.1.2 acts in any way that is likely to bring the Authority into disrepute or damage its reputation or interests.
9.1.3 The Authority may terminate the Licence giving not less than one week’s written notice.
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Where the Authority terminates this Licence under condition 9.1 the Licensee shall not be entitled to receive any refund of the Licence fee or any compensation for any outlay made by the Licensee in connection with this Licence.

9.2 Where the Authority terminates this Licence under condition 9.2, the Authority shall reimburse the License Fee on a pro-rata basis for the remaining duration of the Licence Period but without paying any compensation for any outlay made by the Licensee in connection with this Licence.

9.3 The Licensee must give not less than one month’s written notice to terminate this Licence. No refund for termination of the Licence will be given in this instance and any monies outstanding by the Licensee to the Authority will be required to be paid in full.

9.4 For the avoidance of doubt, following termination of this Licence by either party, the Licensee shall no longer be licensed and therefore not permitted to run training sessions within the Park.

10 General
10.1 Nothing in this Licence shall render or be deemed to render the Licensee an employee or agent of the Authority.

10.2 This Licence contains the entire understanding and agreement between the parties and supersedes all prior representations, documents, negotiations or understandings. The Licensee acknowledges that it has not entered into this Licence in reliance upon any representation by the Authority or anyone acting on its behalf.

10.3 Pursuant to the Freedom of Information Act 2000 the Authority is subject to certain legal obligations in relation to public disclosure of information. The Licensee shall co-operate with and assist the authority with any requests for disclosure which the Authority receives under the Freedom of Information Act 2000 which relate to this Licence. The Licensee understands and agrees that the Authority may be required to provide information relating to this Licence or the Licensee to a third party in order to comply with its obligations under these provisions.

10.4 Nothing in this Licence shall fetter the Authority in the exercise or discharge of its functions, powers and duties (including, without limitation, the power to close all or part of the Park either on a permanent or temporary basis or to temporarily use all or part of the Park for an event).

10.5 The Authority may, at its discretion, assign or otherwise dispose of any of its rights, obligations and liabilities under this Licence without the consent of the Licensee provided that such assignment or disposal shall not increase the burden of the Licensee’s obligations under the Licence.

11 Disputes
11.1 In the event that any dispute arises between parties in connection with this Licence, the parties shall, in the first instance, use their reasonable endeavours to resolve it amicably themselves.

11.2 Disputes remaining unresolved shall, if parties agree, be referred to non-binding mediation.

11.3 In the event that the parties do not agree to non-binding mediation or if the dispute remains unresolved, the dispute shall be referred to the exclusive jurisdiction of the Courts of England pursuant to condition 12 below.

12 Law and Jurisdiction
12.1 This Licence shall be governed by and construed in accordance with English Law and the Authority and Licensee hereby submit to the exclusive jurisdiction of the English courts.

13 Agreement and Declaration
13.1 That this Licence does not nor is intended to confer any legal or other tenancy estate or interest in respect of the Park and that the Authority is not empowered to do so.

13.2 The benefit of this Licence is personal to the Licensee and is not capable of being claimed by any other person body of persons firm or corporation whatsoever and shall not be assignable in whole or in part by the Licensee to any such person body or persons firm or corporation and for
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the purposes hereof the parties agree that the Contract (Rights of Third Parties) Act 1999 shall not apply.

13.3 The licensee will submit any proposals for marketing and promotion of its services in the Parks for approval by The Authority. Use of the Enable logo and pictures of spaces is by permission only and can only be used in connection with licensed fitness activities in The Parks and open spaces.