

## 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 Fees**

1.1 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**').

1.2 You will be required to pay any GST in addition to the Engagement Fee.

1.3 By proceeding with Confirmation, this signifies Your acceptance of the Engagement Fee as outlined.

### **2 Time for Payment**

2.1 You agree to pay the Engagement Fee (time being of the essence in all material respects) in the following manner:

- 2.1.1 the first half of the Engagement Fee (initial 50% payment) must be paid within seven (7) days of Confirmation; and
- 2.1.2 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**').

2.2 However, if the Engagement Date is within seven (7) days of Confirmation, payment of the Engagement Fee in its entirety must be paid immediately.

2.3 You acknowledge that the Engagement is only confirmed and booked by PickStar once payment in accordance with either **clause 2.1.1** or **clause 2.2**, as the situation may be, is made to PickStar. If payment is not forthcoming by You in accordance with this **clause 2**, You acknowledge that the Talent may accept other booking requests and the prospective engagement may be terminated.

2.4 Payment of any kind as referred to in this **clause 2** 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 Client Cancellations

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

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

3.1.2 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.

3.2 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**');

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

3.2.2 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.

### 4 Talent Cancellations

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

4.1.1 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;

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

4.1.3 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.

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

4.2.1 as a result of Talent cancellation;

4.2.2 the state in which the Talent attends the Engagement; or

4.2.3 any statements or actions made by the Talent at the Engagement.

## 5 Promotion & Advertising

5.1 You may only use biographical or any other information about the Talent, supplied by PickStar, to promote the Engagement, provided PickStar has granted You prior written consent to do so.

5.2 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.

5.3 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.

5.4 Your use of permanent recordings for promotional or commercial purposes also requires prior written consent by PickStar.

5.5 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**).

## 6 The Engagement

6.1 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.

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

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

6.3.1 that is not directly facilitated by PickStar; and

6.3.2 prior to confirmation of the Engagement.

6.4 The terms of the Engagement, as to be agreed between You and the Talent on the facilitated Website chatroom only (**'Chatroom'**), 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.

6.5 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.

6.6 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.

## **7 Indemnity & Release**

7.1 You agree to fully indemnify (and forever hold harmless) PickStar:

- 7.1.1 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
- 7.1.2 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.

7.2 You agree to forever and fully release PickStar:

- 7.2.1 from any and all liability arising out of the conduct of the Talent at the Engagement; and
- 7.2.2 from any and all liability arising out of Your communication, in any form, with the Talent.

## **8 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.

## **9 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).

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