

## Semprose Pilates

### Website Terms and Conditions of Use

#### 1. About the Website

- 1.1. Welcome to [www.semprose.com.au](http://www.semprose.com.au) (**Website**). The Website provides you with an opportunity to browse and purchase pilates products and gift vouchers (**Products**) as well as book and purchase pilates classes (**Services**) that have been listed for sale through the Website (**Products and Services**). The Website provides this service by way of granting you access to the content on the Website (**Purchase Services**).
- 1.2. The Website is operated by Burgess Australasia Pty Ltd atf The Burgess Family Trust (abn: 23 409 436 174) t/a Semprose Pilates (**Semprose Pilates**). Access to and use of the Website, or any of its associated Products, are provided by Semprose Pilates. Please read these terms and conditions (**Terms**) carefully. By using, browsing and/or reading the Website, this signifies that you have read, understood and agree to be bound by the Terms. If you do not agree with the Terms, you must cease usage of the Website, or any of Products and Services, immediately.
- 1.3. Semprose Pilates reserves the right to review and change any of the Terms by updating this page at its sole discretion. When Semprose Pilates updates the Terms, it will use reasonable endeavours to provide you with notice of updates to the Terms. Any changes to the Terms take immediate effect from the date of their publication.

#### 2. Acceptance of the Terms

You accept the Terms by remaining on the Website.

#### 3. Booking and Purchase of Services

- 3.1. Semprose Pilates requires all bookings and purchases for Services and services packages to be made via the booking systems, Bookings Essentials (**Booking System**) or via telephone on 02 4624 8666. All bookings are required to be paid for in advance and if made via the Booking System, then at the time of booking.

- 3.2. If you choose to create an account with the Booking System, you acknowledge and agree to be bound by the Terms and Conditions of Use, Privacy Policy and other relevant legal documentation provided by the Booking System.
- 3.3. In using the Purchase Services to book a Service through the Website, you will agree to the payment of the purchase price listed on the Website for the relevant Service (**Purchase Price**).
- 3.4. Payment of the Purchase Price may be made through the available payment methods (**Payment Gateway Providers**).
- 3.5. When purchasing a Services Packages, payment of the Purchase Price must be made in full at the time of purchase. Services packages must be used in accordance with the expiry times applicable to each purchase, and these details are available at the point of purchase. Refunds are not provided for unused portions of Services Packages.
- 3.6. Unless otherwise stated, all amounts are listed in Australian Dollars (AUD) and are GST inclusive, being goods and services tax as defined in A New Tax System (Goods and Products Tax) Act 1999, inclusive amounts. Where services are provided outside Australia, GST is inapplicable.
- 3.7. In using the Purchase Services, you warrant that you have familiarised yourself with, and agree to be bound by, the applicable Terms and Conditions of Use, Privacy Policy and other relevant legal documentation provided by the Payment Gateway Providers.
- 3.8. Following payment of the Purchase Price being confirmed by Semprose Pilates, you will be issued with a receipt to confirm that the payment has been received and Semprose Pilates may record your purchase details for future.
- 3.9. In the event that any payment under this Agreement is not made in full on the due date, Semprose Pilates is entitled to charge you interest at the rate of 5% per annum, calculated daily.
- 3.10. You agree that if you default on any payments due and payable under this Agreement, any costs incurred by Semprose Pilates for steps taken to enforce payment terms will be recoverable and payable by you.

#### 4. Cancellation of Services

- 4.1. You must notify Semprose Pilates of an intention to cancel your involvement in a Service as soon as practicable by e-mail to [admin@semprose.com.au](mailto:admin@semprose.com.au) and abide by the following (**Cancellation Policy**).
- 4.2. You are required to provide a minimum of 8 hours' notice prior to the relevant class commencement should you wish to cancel your booking. Failure to provide sufficient notice will result in a non-attendance fee equal to the cost of attendance in addition to a \$10 fee.
- 4.3. When purchasing a Services packages payment of the Purchase Price must be made in full at the time of purchase. Services packages must be used in accordance with the expiry times applicable to each purchase, and these details are available at the point of purchase. Refunds are not provided for unused portions of Services Packages.

#### 5. Purchase of Products

- 5.1. In using the Purchase Services to purchase the Product through the Website, you will agree to the payment of the Purchase Price listed on the Website for the Product.
- 5.2. Payment of the Purchase Price may be made through debit card and credit card through the available payment provider (**Payment Gateway Providers**).
- 5.3. In using the Purchase Services, you warrant that you have familiarised yourself with, and agree to be bound by, the applicable Terms and Conditions of Use, Privacy Policy and other relevant legal documentation provided by the Payment Gateway Providers.
- 5.4. Following payment of the Purchase Price being confirmed by Semprose Pilates, you will be issued with a receipt to confirm that the payment has been received and Semprose Pilates may record your purchase details for future use.
- 5.5. You acknowledge and agree that where a request for the payment of the Purchase Price is returned or denied, for whatever reason, by your financial institution or is unpaid by you for any other reason, then you are liable for any costs, including banking fees and charges, associated with the Purchase Price.

- 5.6. Unless otherwise stated, all amounts are listed in Australian Dollars (AUD) and are GST inclusive, being goods and services tax as defined in A New Tax System (Goods and Services Tax) Act 1999, inclusive amounts. Where the services are provided outside Australia, GST is inapplicable.
- 5.7. Gift Vouchers are not redeemable for cash. Gift Vouchers must be redeemed by contacting the studio via e-mail at [admin@semprose.com.au](mailto:admin@semprose.com.au). Gift Vouchers cannot be returned, refunded or exchanged and must be redeemed within 3 years of purchase.

## 6. Refunds and Returns of Products

- 6.1. If you have received the incorrect Product, Semprose Pilates will provide a refund on the return of the Product. To request a refund and organize a return please e-mail [admin@semprose.com.au](mailto:admin@semprose.com.au) with your proof of purchase and photographs of the Product you have received within 5 business days of receiving the Product.
- 6.2. Semprose Pilates does not provide refunds for change of mind.
- 6.3. Refunds will not be given for late delivery outside the stipulated delivery time frames provided on the Website or by the Delivery Service Providers (**Delivery Service Providers**).
- 6.4. In the following situations, no refund or return will be available.
  - (a) Denied acceptance of delivery by receiver;
  - (b) Inaccurate delivery address;
  - (c) Absent receiver - If a receiver is not home and a calling card is left at the address by the Delivery Service Provider, it is the receiver's responsibility to contact the Delivery Service Provider to arrange appropriate delivery. If the parcel remains undeliverable due to no contact from the receiver, it will be returned to Semprose Pilates for a return fee charged to the initial payment method.
- 6.5. Semprose Pilates wants you to be satisfied with your Product. If you have any issues with Semprose Pilates Products, please e-mail [admin@semprose.com.au](mailto:admin@semprose.com.au).

## 7. Cancellations

- 7.1. Once payment for an order has been accepted, cancellation is at the discretion of Semprose Pilates. If you wish to cancel your order, please contact Semprose Pilates immediately on 02 4624 8666.
- 7.2. Cancellation of orders must be made within 1 hour of the time of order.
- 7.3. Where a Product has been listed at an incorrect price, or has incorrect written information or images, Semprose Pilates reserves the right to cancel a transaction. The purchase amount will be refunded via the payment method used for the initial purchase.

## 8. Shipping

- 8.1. You acknowledge that the Purchase Services offered by Semprose Pilates integrate delivery (**Delivery Services**) through the use of third party delivery companies, Delivery Service Providers.
- 8.2. In providing the Purchase Services, Semprose Pilates may provide you with a variety of delivery and insurance options offered as part of the Delivery Services by the Delivery Service Providers. You acknowledge and agree that Semprose Pilates is not the provider of these delivery and insurance options and merely facilitates your interaction with the Delivery Service Providers in respect to providing the Delivery Services.
- 8.3. In the event that an item is lost or damaged in the course of the Delivery Services, Semprose Pilates asks that you:
  - (a) contact the Delivery Service Provider directly to request a refund or to claim on any insurance options available; and
  - (b) contact us by sending an email to [admin@semprose.com.au](mailto:admin@semprose.com.au) outlining in what way the Products were damaged in transit so we are able to determine if the Delivery Service Provider should be removed from the Purchase Services.
- 8.4. Semprose Pilates does not provide change of mind refunds. Please keep this in mind when making a purchase.

## 9. Warranty

## 9.1. **Warranty for Services**

- (a) Semprose Pilates will use its best efforts and take all reasonable steps to help you achieve your desired results. However, Semprose Pilates makes no warranty that the Services will meet your requirements or that all clients will achieve the same results.
- (b) The Services do come with guarantees that cannot be excluded under the Australian Consumer Law. For major failures with the Services, you are entitled to cancel this Agreement with Semprose Pilates, and you are entitled to a refund for the unused portion, or to compensation for its reduced value. A major failure with the service is defined by the Australian Consumer Law and includes but is not limited to severe situations where a service is unfit for the purpose it is sold or creates an unsafe situation.

## 9.2. **Warranty for Products**

- (a) Semprose Pilates Products come with guarantees that cannot be excluded under the Australian Consumer Law. You are entitled to a replacement or refund for a major failure of the Product and compensation for any other reasonably foreseeable loss or damage. You are also entitled to have the Products repaired or replaced if the Products fail to be of acceptable quality and the failure does not amount to a major failure. A major failure with a product under Australian Consumer Law includes but is not limited to, where the product is significantly different from the description shown to you, or the goods are unsafe or unfit for their normal purpose.
- (b) If you have received a Physical Product or Eproduct that you believe is faulty or defective, please contact [admin@semprose.com.au](mailto:admin@semprose.com.au) with photographic proof.

## **10. Disclaimers**

### 10.1. **Disclaimer for Services**

- (a) You understand that the Services require physical exertion. Semprose Pilates recommends that you consult your doctor and obtain any necessary approvals, including if you have chronic or recurring pain, are recovering from an injury, pregnant, postnatal, nursing or elderly, before undertaking any activities offered within the Services.

- (b) You agree that when you purchase the Services, you are solely responsible for creating and implementing your own physical, mental and emotional well-being, decisions, choices, actions and results arising out of or resulting from Semprose Pilates's relationship with you and interactions with you. As such, you agree that Semprose Pilates is not and will not be liable or responsible for any actions or inaction, or for any direct or indirect result of any Services it provides.
- (c) You understand that the Services are not a substitute for medical attention, examination, diagnosis or treatment. It is your exclusive responsibility to seek such independent professional guidance as needed.
- (d) You agree to release and discharge Semprose Pilates from and against all claims arising out of or in connection with provision of the Services and any techniques employed. This release includes but is not limited to any claim for personal injury, damages and death of any participant which has received Services from Semprose Pilates.

#### 10.2. **Disclaimer for Products**

- (a) You agree that when you purchase a Product, you are solely responsible for creating and implementing your own physical, mental and emotional well-being, decisions, choices, actions and results arising out of or resulting from Semprose Pilates's relationship with you and interactions with you. As such, you agree that Semprose Pilates is not and will not be liable or responsible for any actions or inaction, or for any direct or indirect result of any Products it provides.
- (b) You understand that the Products are not a substitute for medical attention, examination, diagnosis or treatment. It is your exclusive responsibility to seek such independent professional guidance as needed.
- (c) You agree to release and discharge Semprose Pilates from and against all claims arising out of or in connection with provision of the Products. This release includes but is not limited to any claim for personal injury, damages and death of any participant which has received a Product from Semprose Pilates.

### **11. Information Disclaimer**

- 11.1. Any information, advice, content or documentation provided on the Website, through the Products and Services, social media accounts, blog or on any other related platform do not constitute medical, professional, psychological or other advice, and are provided for general information and guidance purposes only.
- 11.2. All care is taken in the preparation of the information and published materials on the Website, through the Products and Services, social media accounts, blog, or on any other related platform. Semprose Pilates does not make any representations or give any warranties about its accuracy, reliability, completeness or suitability for any particular purpose.
- 11.3. To the extent permissible by law, Semprose Pilates will not be liable for any expenses, losses, damages (including indirect or consequential damages) or costs which might be incurred as a result of the information being inaccurate or incomplete in any way and for any reason or your reliance on the information, advice or documentation on the Website, through the Products, social media accounts, blog, or on any other related platform.

## 12. Copyright and Intellectual Property

- 12.1. You acknowledge that the Website, the Purchase Services, Semprose Pilates' name, Products, and any logos, designs, text, graphics, software, content, files, materials, and any other intellectual property rights contained therein, including without limitation, any copyrights, patents, trademarks, proprietary or other rights arising thereof, are owned by Semprose Pilates or its affiliates, licensors, or suppliers whether displayed on the Website, membership site, social media accounts, blog, within the podcast or on any other related platform (**Content**).
- 12.2. You hereby indemnify and agrees to keep indemnified Semprose Pilates against all liability, losses or expenses incurred by Semprose Pilates in relation to or in any way directly or indirectly connected with any breach of intellectual property rights of Semprose Pilates or any third party by you or your agents.
- 12.3. You may not, without the prior written permission of Semprose Pilates and the permission of any other relevant rights owners: broadcast, republish, up-load to a third party, transmit, post, distribute, show or play in public, adapt or change in any way the Content or third party content for any purpose. This prohibition does not



extend to materials on the Website, which are freely available for re-use or are in the public domain.

- 12.4. For any Products and Services which enable you to use any software, content, equipment or other physical or non-physical materials owned or licensed by Semprose Pilates, Semprose Pilates grants you a limited, revocable, non-exclusive, non-sub licensable, non-transferable license to access and use the specific Products, and any related software, content, equipment or other materials for your specific, non-commercial use only.

### **13. Privacy**

Semprose Pilates takes your privacy seriously and any information provided through your use of the Website and/or the Purchase Services are subject to Semprose Pilates' Privacy Policy.

### **14. General Disclaimer**

- 14.1. You acknowledge that Semprose Pilates does not make any terms, guarantees, warranties, representations or conditions whatsoever regarding the Products and Services other than provided for pursuant to these Terms.
- 14.2. Nothing in these Terms limits or excludes any guarantees, warranties, representations or conditions implied or imposed by law, including the Australian Consumer Law (or any liability under them) which by law may not be limited or excluded.
- 14.3. Subject to this clause, and to the extent permitted by law:
  - (c) all terms, guarantees, warranties, representations or conditions which are not expressly stated in these Terms are excluded; and
  - (d) Semprose Pilates will not be liable for any special, indirect or consequential loss or damage (unless such loss or damage is reasonably foreseeable resulting from our failure to meet an applicable Consumer Guarantee), loss of profit or opportunity, or damage to goodwill arising out of or in connection with the Purchase Services or these Terms (including as a result of not being able to use the Purchase Services or the late supply of the Purchase Services), whether at common law, under contract, tort (including negligence), in equity, pursuant to statute or otherwise.

14.4. Use of the Website, the Purchase Services, and any of the Products and Services of Semprose Pilates is at your own risk. Everything on the Website, the Purchase Services, and the Products and Services of Semprose Pilates, are provided to you on an "as is" and "as available" basis, without warranty or condition of any kind. None of the affiliates, directors, officers, employees, agents, contributors, third party content providers or licensors of Semprose Pilates make any express or implied representation or warranty about its Content or any Products or Purchase Services (including the Products and Services or Purchase Services of Semprose Pilates) referred to on the Website. This includes (but is not restricted to) loss or damage you might suffer as a result of any of the following:

- (a) failure of performance, error, omission, interruption, deletion, defect, failure to correct defects, delay in operation or transmission, computer virus or other harmful component, loss of data, communication line failure, unlawful third party conduct, or theft, destruction, alteration or unauthorised access to records;
- (b) the accuracy, suitability or currency of any information on the Website, the Purchase Service, or any of its Content related to Products and Services (including third party material and advertisements on the Website);
- (c) costs incurred as a result of you using the Website, the Purchase Services or any of the Products and Services;
- (d) the Content or operation in respect to links which are provided for your convenience;
- (e) any failure to complete a transaction, or any loss arising from e-commerce transacted on the Website; or
- (f) any defamatory, threatening, offensive or unlawful conduct of third parties or publication of any materials relating to or constituting such conduct.

## **15. Force Majeure**

15.1. If circumstances beyond Semprose Pilates's control prevent or hinder its provision of the Products or Services, Semprose Pilates is free from any obligation to provide the Products or Services or fulfil your order while those circumstances continue. Semprose Pilates may elect to terminate this agreement or keep the agreement on foot until such circumstances have ceased.

- 15.2. Circumstances beyond Semprose Pilates's control include, but are not limited to, unavailability of materials or components, pandemics, strikes, lockouts, riots, natural disasters, fire, war, acts of God, Government decrees, proclamations or orders, transport difficulties and failures or malfunctions of computers or other information technology systems.

## 16. User Generated Content

- 16.1. If you choose to contribute any content to the Website or any other platform operated by Semprose Pilates, you are solely responsible for it. This includes comments, reviews, tweets, posts, photos, pictures, images, videos, materials or other user-generated content or information (**Your Content**).
- 16.2. By contributing content to the Website, you grant Semprose Pilates a royalty-free, non-exclusive license to use Your Content in any way that it chooses. This may include the use of your photos or video on other parts of the Website, advertising, promotions or social media accounts held by Semprose Pilates.
- 16.3. Additionally, if you post your User Content with any personal information including identifying information such as location or name, you agree Semprose Pilates can use that information with your User Content for advertising and promotional purposes, or any other business purpose.
- 16.4. You confirm you own or have the right to use any copyright material included in Your Content (including replies to Semprose Pilates social media posts, reviews, music, photos, quotes and excerpts of audio or video), that you have permission of anyone appearing or performing in Your Content and that you are not infringing any third-party rights by submitting the content to Semprose Pilates. You also confirm you have, where appropriate, sought the consent of the parent or guardian of any person under the age of 18 who is featured in Your Content.
- 16.5. Please ensure you keep your own copies of Your Content as Semprose Pilates may not archive, store or back-up Your Content nor continue to make Your Content accessible online.
- 16.6. Semprose Pilates will endeavour to provide you with an appropriate credit when using Your Content on Semprose Pilates platforms, though you understand and agree this may not always be possible.

- 16.7. Semprose Pilates reserves the right to remove Your Content at any time. Your Content must not be malicious, libellous, false, inaccurate, threatening, abusive, obscene, defamatory or racially, sexually, religiously or otherwise objectionable and offensive.

## **17. Mailing List and SMS List Registration**

- 17.1. You may be given the option to register for the Semprose Pilates Mailing List (**Mailing List**) and SMS List (**SMS List**).
- 17.2. As part of the registration process, you may be required to provide personal information about yourself (such as identification or contact details), including:
- (a) Email address
  - (b) Name
  - (c) Phone Number
- 17.3. If you choose to register for the Mailing List or SMS List, you agree to receive promotional material, updates and other content from Semprose Pilates.

## **18. Limitation of Liability**

- 18.1. Semprose Pilates' total liability arising out of or in connection with the Purchase Services or these Terms, however arising, including under contract, tort (including negligence), in equity, under statute or otherwise, will not exceed the most recent Purchase Price paid by you under these Terms or where you have not paid the Purchase Price, then the total liability of Semprose Pilates is the resupply of information or Purchase Services to you.
- 18.2. You expressly understand and agree that Semprose Pilates, its affiliates, employees, agents, contributors, third party content providers and licensors shall not be liable to you for any direct, indirect, incidental, special consequential or exemplary damages which may be incurred by you, however caused and under any theory of liability. This shall include, but is not limited to, any loss of profit (whether incurred directly or indirectly), any loss of goodwill or business reputation and any other intangible loss.
- 18.3. Semprose Pilates is not responsible or liable in any manner for any site content (including the Content and Third Party Content) posted on the Website or in connection with the Purchase Services, whether posted or caused by users of the website of Semprose Pilates, by third parties or by any of the Purchase Services offered by Semprose Pilates.

## **19. Indemnity**

- 19.1. You agree to indemnify Semprose Pilates, its affiliates, employees, agents, contributors, third party content providers and licensors from and against:
- (a) all actions, suits, claims, demands, liabilities, costs, expenses, loss and damage (including legal fees on a full indemnity basis) incurred, suffered or arising out of or in connection with any Content you post through the Website;
  - (b) any direct or indirect consequences of you accessing, using or transacting on the Website or attempts to do so and any breach by you or your agents of these Terms; and/or
  - (c) any breach of the Terms.

## **20. Venue and Jurisdiction**

The Purchase Services offered by Semprose Pilates is intended to be viewed by residents of Australia. In the event of any dispute arising out of or in relation to the Website, you agree that the exclusive venue for resolving any dispute shall be in the courts of New South Wales, Australia.

## **21. Governing Law**

The Terms are governed by the laws of New South Wales, Australia. Any dispute, controversy, proceeding or claim of whatever nature arising out of or in any way relating to the Terms and the rights created hereby shall be governed, interpreted and construed by, under and pursuant to the laws of New South Wales, Australia, without reference to conflict of law principles, notwithstanding mandatory rules. The validity of this governing law clause is not contested. The Terms shall be binding to the benefit of the parties hereto and their successors and assigns.

## **22. Independent Legal Advice**

Both parties confirm and declare that the provisions of the Terms are fair and reasonable and both parties having taken the opportunity to obtain independent legal advice and declare the Terms are not against public policy on the grounds of inequality or bargaining power or general grounds of restraint of trade.

### **23. Severance**

If any part of these Terms is found to be void or unenforceable by a Court of competent jurisdiction, that part shall be severed and the rest of the Terms shall remain in force.