

## **BACKGROUND:**

This agreement applies as between you, the User of this Website and Be Active, the owner(s) of this Website. Your agreement to comply with and be bound by these Terms and Conditions is deemed to occur upon your first use of the Website. If you do not agree to be bound by these Terms and Conditions, you should stop using the Website immediately. No part of this Website is intended to constitute a contractual offer capable of acceptance. Your order constitutes a contractual offer and our acceptance of that offer is deemed to occur upon our sending a dispatch email to you indicating that your order has been fulfilled and is on its way to you.

### I. Definitions and Interpretation

In this Agreement the following terms shall have the following meanings:

- “Account”** means collectively the personal information, Payment Information and credentials used by Users to access Paid Content and / or any communications System on the Website;
- “Content”** means any text, graphics, images, audio, video, software, data compilations and any other form of information capable of being stored in a computer that appears on or forms part of this Website;
- “Be Active”** means Be Active Social Enterprise CIC Burgess Park Tennis Centre, 44 Addington Square, Camberwell, London, SE5 7LA;
- “Service”** means collectively any online facilities, tools, services or information that Be Active makes available through the Website either now or in the future;
- “Services”** means the services available to you through this Website, specifically provision of sports booking, equipment and memberships;
- “Payment Information”** means any details required for the purchase of Services
- from this Website. This includes, but is not limited to, credit / debit card numbers, bank account numbers and sort codes;
- “Purchase Information”** means collectively any orders, invoices, receipts or similar that may be in hard copy or electronic form;
- “Premises”** Means our place(s) of business located at registered office Burgess Park Tennis Centre, 44 Addington Square, Camberwell, London, SE5 7LA and external venues;
- “System”** means any online communications infrastructure that Be Active makes available through the Website either now or in the future. This includes, but is not limited to, webbased email, message boards, live chat facilities and email links;Website Terms and Conditions
- “User” / “Users”** means any third party that accesses the Website and is not employed by Be Active and acting in the course of their employment; and
- “Website”** means the website that you are currently using ([www.beactivesocialenterprise.com](http://www.beactivesocialenterprise.com)) and any subdomains of this site (e.g. [subdomain.www.beactivesocialenterprise.com/juniors](http://subdomain.www.beactivesocialenterprise.com/juniors)) unless expressly excluded by their own terms and conditions.

### 2. Age Restrictions

Persons under the age of 18 should use this Website only with the supervision of an Adult. Payment Information must be provided by or with the permission of an Adult.

### 3. Business Customers

These Terms and Conditions also apply to customers procuring Services in the course of business.

### 4. Intellectual Property

4.1 Subject to the exceptions in Clause 5 of these Terms and Conditions, all Content included on the Website, unless uploaded by Users, including, but not limited to, text, graphics, logos, icons, images, sound clips, video clips, data compilations, page layout, underlying code and software is the property of Be Active, our affiliates or other relevant third parties. By continuing to use the Website you acknowledge that such material is protected by applicable United Kingdom and International intellectual property and other laws.

4.2 Subject to Clause 6 you may not reproduce, copy, distribute, store or in any other fashion re-use material from the Website unless otherwise indicated on the Website or unless given express written permission to do so by Be Active.

## 5. Third Party Intellectual Property

5.1 Unless otherwise expressly indicated, all Intellectual Property rights including, but not limited to, Copyright and Trademarks, in product images and descriptions belong to the manufacturers or distributors of such products as may be applicable.

5.2 Subject to Clause 6 you may not reproduce, copy, distribute, store or in any other fashion re-use such material unless otherwise indicated on the Website or unless given express written permission to do so by the relevant manufacturer or supplier.

## 6. Fair Use of Intellectual Property

Material from the Website may be re-used without written permission where any of the exceptions detailed in Chapter III of the Copyright Designs and Patents Act 1988 apply.

## 7. Links to Other Websites

This Website may contain links to other sites. Unless expressly stated, these sites are not under the control of Be Active or that of our affiliates. We assume no responsibility for the content of such web sites and disclaim liability for any and all forms of loss or damage arising out of the use of them. The inclusion of a link to another site on this Website does not imply any endorsement of the sites themselves or of those in control of them. Website Terms and Conditions

## 8. Links to this Website

Those wishing to place a link to this Website on other sites may do so only to the home page of the site [www.beactivesocialenterprise.com](http://www.beactivesocialenterprise.com) without prior permission. Deep linking (i.e. links to specific pages within the site) requires the express permission of Be Active. To find out more please contact us by email at [beactivesocialenterprise@gmail.com](mailto:beactivesocialenterprise@gmail.com) or by post.

## 9. Use of Communications Facilities

9.1 When using the enquiry form or any other System on the Website you should do so in accordance with the following rules:

9.1.1 You must not use obscene or vulgar language;

9.1.2 You must not submit Content that is unlawful or otherwise objectionable. This includes, but is not limited to, Content that is abusive, threatening, harassing, defamatory, ageist, sexist or racist;

9.1.3 You must not submit Content that is intended to promote or incite violence;

9.1.4 It is advised that submissions are made using the English language(s) as we may be unable to respond to enquiries submitted in any other languages;

9.1.5 The means by which you identify yourself must not violate these Terms and Conditions or any applicable laws;

9.1.6 You must not impersonate other people, particularly employees and representatives of Be Active or our affiliates; and

9.1.7 You must not use our System for unauthorised mass-communication such as “spam” or “junk mail”.

9.2 You acknowledge that Be Active reserves the right to monitor any and all communications made to us or using our System.

9.3 You acknowledge that Be Active may retain copies of any and all communications made to us or using our System.

9.4 You acknowledge that any information you send to us through our System or post on the forums may be modified by us in any way and you hereby waive your moral right to be identified as the author of such information. Any restrictions you may wish to place upon our use of such information must be communicated to us in advance and we reserve the right to reject such terms and associated information.

## 10. Accounts

10.1 In order to procure Services on this Website and to use the Be Active Card and booking facilities you are required to create an Account which will contain certain personal details and Payment Information which may vary based upon your use of the Website as we may not require payment information until you wish to make a purchase. By continuing to use this Website you represent and warrant that:

10.1.1 all information you submit is accurate and truthful;

10.1.2 you have permission to submit Payment Information where permission may be required; and

10.1.3 you will keep this information accurate and up-to-date.

Your creation of an Account is further affirmation of your representation and warranty. Website Terms and Conditions

10.2 It is recommended that you do not share your Account details, particularly your username and password. Be Active accepts no liability for any losses or damages incurred as a result of your Account details being shared by you. If you use a shared computer, it is recommended that you do not save your Account details in your internet browser.

10.3 If you have reason to believe that your Account details have been obtained by another without consent, you should contact Be Active immediately to suspend your Account and cancel any unauthorised orders or payments that may be pending. Please be aware that orders or payments can only be cancelled up until provision of Services has commenced. In the event that an unauthorised provision commences prior to your notifying us of the unauthorised nature of the order or payment, Be Active will suspend provision of Services and the withdrawal of any scheduled payments pending investigation. Following investigation, it shall be determined whether or not to cancel the Services and make a full or partial refund of the payment.

10.4 When choosing your username you are required to adhere to the terms set out above in Clause 9. Any failure to do so could result in the suspension and/or deletion of your Account.

## 11. Termination and Cancellation

11.1 Either Be Active or you may terminate your Account. If Be Active terminates your Account, you will be notified by email and an explanation for the termination will be provided. Notwithstanding the foregoing, we reserve the right to terminate without giving reasons.

11.2 If Be Active terminates your Account, any current or pending orders or payments on your Account will be cancelled and provision of Services will not commence.

11.3 Be Active reserves the right to cancel orders or payments without stating reasons, for any reason prior to processing payment or commencing Services provision.

11.4 Specific Termination, Cancellation and Refund provisions for our services are governed by our Privacy Policy <http://beactivesocialenterprise.jimdo.com/about-us/commercial-policies/> which is incorporated into these terms and conditions by this reference. To view the Privacy Policy, please click on the link above / paste the URL.

11.5 If you terminate your Account any non-completed orders or payments will be cancelled and you will be refunded any monies paid in relation to those orders.

## 12. Services, Pricing and Availability

12.1 Whilst every effort has been made to ensure that all descriptions of Services available from Be Active correspond to the actual Services, Be Active is not responsible for any variations from these descriptions. This does not exclude our liability for mistakes due to negligence on our part and refers only to variations of the correct Services, not different Services altogether. Please refer to sub-Clause 13.4 for incorrect Services.

12.2 Where appropriate, you may be required to select the required course of Services.

12.3 Be Active does not represent or warrant that such Services will be available. Availability indications are provided on the Website however these may not take into account orders that have taken place during your visit to the web site, nor to bad weather conditions or to courses requiring a minimum number of Website Terms and Conditions participants.

12.4 All pricing information on the Website is correct at the time of going online. Be Active reserves the right to change prices and alter or remove any special offers from time to time and as necessary.

12.5 In the event that prices are changed during the period between an order being placed for Services and Be Active processing that order and taking payment, you will be contacted prior to your order being processed with details of the new price.

12.6 All prices on the Website do include VAT as indicated. Be Active's VAT number is I44339515.

## 13. Provision of Services

13.1 Provision of Services shall commence when full payment has been received or as otherwise detailed in the Terms & Conditions pertaining directly to those Services.

13.2 Be Active shall use its best endeavours to provide the Services with reasonable skill and care.

13.3 Provision of all Services shall be subject to the terms and conditions pertaining directly to those Services.

13.4 In the event that Services are provided that are not in conformity with your order and thus incorrect, you should contact us within 10 days to inform us of the mistake. Be Active will ensure that any necessary corrections to the Services provided are made within 7 working days.

13.5 Be Active reserves the right to exercise discretion with respect to any alterations to Services under the provisions of this Clause 13. Factors which may be taken into account in the exercise of this discretion include, but are not limited to:

13.5.1 Any use or enjoyment that you may have already derived from the Services;

13.5.2 Any characteristics of the Services which may mean that cessation of

provision is impossible without significant further work on the part and at the expense of Be Active.

Such discretion to be exercised only within the confines of the law.

#### 14. Privacy

14.1 Use of the Website is also governed by our <<Privacy Policy

[\*\*http://beactivesocialenterprise.jimdo.com/about-us/commercial-policies/>>\*\*](http://beactivesocialenterprise.jimdo.com/about-us/commercial-policies/>>)

which is incorporated into these terms and conditions by this reference. To view the Privacy Policy, please click on the link / paste the URL above.

14.2 If you wish to opt-out of our placing cookies onto your computer or device, please adjust your internet browser's settings to restrict cookies as detailed in your internet browser's help menu.. You may also wish to delete cookies which have already been placed. For instructions on how to do this, please consult your internet browser's help menu.

#### 15. Disclaimers

15.1 Be Active makes no warranty or representation that the Website will meet your requirements, that it will be of satisfactory quality, that it will be fit for a particular purpose, that it will not infringe the rights of third parties, that it will be compatible with all systems, that it will be secure and that all information provided will be accurate. We make no guarantee of any specific results from Website Terms and Conditions the use of our Service or Services.

15.2 No part of this Website is intended to constitute advice and the Content of this Website should not be relied upon when making any decisions or taking any action of any kind.

15.3 No part of this Website is intended to constitute a contractual offer capable of acceptance.

15.4 Whilst Be Active uses reasonable endeavours to ensure that the Website is secure and free of errors, viruses and other malware, all Users are advised to take responsibility for their own security, that of their personal details and their computers.

#### 16. Changes to the Service and these Terms and Conditions

Be Active reserves the right to change the Website, its Content or these Terms and Conditions at any time. You will be bound by any changes to the Terms and Conditions from the first time you use the Website following the changes. If Be Active is required to make any changes to Terms and Conditions by law, these changes will apply automatically to any orders currently pending in addition to any orders placed by you in the future.

#### 17. Availability of the Website

17.1 The Service is provided “as is” and on an “as available” basis. We give no warranty that the Service will be free of defects and / or faults. To the maximum extent permitted by law we provide no warranties (express or implied) of fitness for a particular purpose, accuracy of information, compatibility and satisfactory quality.

17.2 Be Active accepts no liability for any disruption or non-availability of the Website resulting from external causes including, but not limited to, ISP equipment failure, host equipment failure, communications network failure, power failure, natural events, acts of war or legal restrictions and censorship.

## 18. Limitation of Liability

18.1 To the maximum extent permitted by law, Be Active accepts no liability for any direct or indirect loss or damage, foreseeable or otherwise, including any indirect, consequential, special or exemplary damages arising from the use of the Website or any information contained therein. Users should be aware that they use the Website and its Content at their own risk.

18.2 Nothing in these Terms and Conditions excludes or restricts Be Active's liability for death or personal injury resulting from any negligence or fraud on the part of Be Active.

18.3 Nothing in these Terms and Conditions excludes or restricts Be Active's liability for any direct or indirect loss or damage arising out of the incorrect provision of Services or out of reliance on incorrect information included on the Website.

18.4 Whilst every effort has been made to ensure that these Terms and Conditions adhere strictly with the relevant provisions of the Unfair Contract Terms Act 1977, in the event that any of these terms are found to be unlawful, invalid or otherwise unenforceable, that term is to be deemed severed from these Terms and Conditions and shall not affect the validity and enforceability of the remaining Terms and Conditions. This term shall apply only within jurisdictions where a particular term is illegal.

## 19. No Waiver

In the event that any party to these Terms and Conditions fails to exercise any right or Website Terms and Conditions remedy contained herein, this shall not be construed as a waiver of that right or remedy.

## 20. Previous Terms and Conditions

In the event of any conflict between these Terms and Conditions and any prior versions thereof, the provisions of these Terms and Conditions shall prevail unless it is expressly stated otherwise.

## 21. Third Party Rights

Nothing in these Terms and Conditions shall confer any rights upon any third party. The agreement created by these Terms and Conditions is between you and Be Active.

## 22. Communications

22.1 All notices / communications shall be given to us either by post to our Premises (see address above) or by email to [beactivesocialenterprise@gmail.com](mailto:beactivesocialenterprise@gmail.com). Such notice will be deemed received 3 days after posting if sent by first class post, the day of sending if the email is received in full on a business day and on the next business day if the email is sent on a weekend or public holiday.

22.2 Be Active may from time to time send you information about our products and/or services. If you do not wish to receive such information, please click on the Unsubscribe button at the bottom of any email. Any difficulties please contact us.

## 23. Law and Jurisdiction

These Terms and Conditions and the relationship between you and Be Active shall be governed by and construed in accordance with the Law of England and Wales and Be Active and you agree to submit to the exclusive jurisdiction of the Courts of England and Wales.