

## **GYM AFFILIATION PROGRAM**

Terms and Conditions of Participation – World (ex AUS & NZL)

### **1. General Information**

- 1.1 Upsolut Sports GmbH whose registered office is at Bahrenfelder Str. 322, 22765 Hamburg/Germany ("Upsolut" or "we" or "us") is the creator of the international fitness competition series "HYROX - the World Series of Fitness Racing" ("HYROX") and the accompanying gym cooperation training-concept "Gym Affiliation Program".
- 1.2 The Gym Affiliation Program is being offered to gyms and individual fitness instructor/trainer that are doing business within territories outside of Australia, New Zealand, and Singapore ("Participant" or "you").

### **2. These Terms and Conditions**

- 2.1 These Terms and Conditions ("T&Cs") set out and comprise all of the legal terms applying between us and you in relation to your registration to participate in the Gym Affiliation Program ("Program").
- 2.2 We reserve the right at our discretion to amend these T&Cs (and the format and structure of the Program), including if there is: (i) a change in the applicable laws and/or (ii) change in the format, date, structure of the HYROX events on a territorial and/or global basis. We will notify you if we implement any such changes.

### **3. The Program**

- 3.1 The Program runs for twelve (12) consecutive months following registration ("Term") and comprises of following non-exclusive rights and benefits for advertising purposes of the Participant's business and promotion of specific training and registration for HYROX events taking place within your country of business registration ("Territory"):
  - 3.1.1 display signage signifying that you are an "Official HYROX Gym";
  - 3.1.2 use the HYROX brand and approved imagery in marketing material;
  - 3.1.3 run HYROX focussed training sessions;
  - 3.1.4 feature on the HYROX gym finder;
  - 3.1.5 conduct HYROX performance testing.
- 3.2 The Term will be prolonged for another twelve (12) consecutive months if the Agreement is not terminated by either party in accordance with clause 8.1 stipulated hereunder.

### **4. Program Registration**

- 4.1 To register to participate in the Program, you must via our website:
  - 4.1.1 truthfully complete the Program booking form (which is available on Upsolut's website). In doing so, you must not use any false information or misrepresent the information of another entity or person as applying to you;
  - 4.1.2 provide your consent to the storage and processing of your data in accordance with the provisions of the General Data Protection Regulations;
  - 4.1.3 confirm your acknowledgment and acceptance of these T&Cs; and

**4.1.4** agree to pay Upsolut the fee payable by you to Upsolut in consideration of your participation in the Program (“**Fee**”).

**4.2** Your completion of the above registration process constitutes a binding, irrevocable and unconditional offer to participate in the Program in accordance with these T&Cs.

**4.3** Once we confirm your registration by email, a binding contract is entered into between us for you to participate in the Program in accordance with, and subject to, these T&Cs (to the exclusion of all other terms and conditions save where expressed to the contrary in these T&Cs).

## **5. The Fee and Terms of Payment**

**5.1** All listed prices on our registration page are stated to be exclusive of VAT.

**5.2** The Fee is due for payment immediately upon registration for the Program and, if applicable, at the the same day of each following month. Payments may be made by credit or debit card.

**5.3** Upsolut will provide you with a proper invoice for each payment at least seven (7) business days before the respective due date.

**5.4** If payment is not processed for any reason whatsoever, Upsolut is entitled to suspend participation within the Program until any outstanding payment is received and/or terminate the contract immediately without liability. You shall be liable for all costs reasonably associated with such termination.

## **6. Access to the Program, Delivery of HYROX-IP, and Restriction of Use**

**6.1** Upon registration and payment of the Fee you will:

**6.1.1** receive access to training- and marketing material such as training plans, logo, etc.;

**6.1.2** benefit from our affiliate bonus program, which may however vary regionally (check your local website);

**6.1.3** receive a free HYROX Gym banner or flag (depending on territory, check the regional bonus program)

**6.2** HYROX signage and imagery consists of the HYROX word mark as registered with the competent trademark authorities, the HYROX logo, the designation as “Official HYROX Gym” as well as any other identification that may be specifically created for the Program (together “HYROX-IP”).

**6.3** HYROX-IP will be made available to you for retrieval/download and may be used in the form, design and layout as provided by Upsolut.

**6.4** Modification and/or combination of the HYROX-IP or any other HYROX identifier with any other mark, logo, design, name, or business entity is prohibited.

**6.5** The use of the HYROX-IP for advertising purposes outside of the Territory is prohibited.

## **7. Representation and Warranties**

**7.1** Upsolut represents and warrants that:

**7.1.1** the HYROX trademark has been duly registered with the competent authorities; and

**7.1.2** it is not aware, at the time of conclusion of the Agreement, of any third-party

rights that conflict with the registration or the use of the HYROX trademark.

- 7.2 You represent and warrant that you will neither be:
- 7.2.1 attacking by yourself or supporting the attack of a third party on HYROX-IP;
  - 7.2.2 using the HYROX-IP contrary to the Agreement;
  - 7.2.3 damaging the HYROX-IP in any way; and/or
  - 7.2.4 registering or using own trademarks for the product range covered by the contract which are identical or similar to the HYROX trademark, logo or other identifications.

## **8. Termination and Settlement of the Agreement after Termination**

- 8.1 Each party may terminate the Agreement with legal effect to the last day of the Term by giving the other party a two-months notice in writing.
- 8.2 Without any notice each party shall be entitled to terminate this Agreement in writing for cause. Such cause shall be deemed to exist, inter alia, if:
- 8.2.1 a party culpably breaches an obligation material to it under this Agreement and does not remedy such breach of obligation even after having been requested to do so, or does not remedy it in the future; or
  - 8.2.2 an application is filed for the opening of insolvency proceedings against the assets of the other party or liquidation is resolved.
- 8.3 Termination shall be without prejudice to the rights and liabilities which have accrued to either party prior to the date of expiry or early termination. In case of early termination any outstanding monthly payments of the Fee shall become due and payable immediately.
- 8.4 Upon termination of this Agreement, your right to participate in the Program and to use the HYROX IP shall cease to exist, and you are obligated to immediately return to Upsolut all printed materials received and to immediately, verifiably, and irretrievably destroy any retrieved material in file format.
- 8.5 If you have acquired own trademark rights because of the use of HYROX-IP in commercial transactions, you are obligated to transfer these to Upsolut after termination of the Agreement.

## **9. Privacy and Data Protection and Confidentiality**

- 9.1 You acknowledge and agree that Upsolut may use any information provided by you for the following purposes:
- 9.1.1 the enforcement of Upsolut's legal rights;
  - 9.1.2 to notify you of HYROX events, activities, publications and services that are in the legitimate interest of Upsolut or should you consent to receiving these from Upsolut;
  - 9.1.3 to notify you of any amendments to these T&Cs and/or any of the Events in accordance with clause 3.1; and
  - 9.1.4 to comply with the applicable laws.
- 9.2 You are obligated to maintain secrecy with respect to all documents and confidential information provided to you by Upsolut. This applies in particular to the use of printed materials, templates and files, which must be stored in such a way that third parties cannot gain knowledge of them. This obligation shall also apply beyond the

date of any other associated agreement and in particular with regard to information provided verbally.

## **10. General**

- 10.1 These T&Cs have been drafted in the English language and may be translated into other languages. In the event of any discrepancy between the English and any translated version, the English version shall prevail.
- 10.2 The contract between us constitutes the entire agreement between the parties and no party shall have any claim or remedy in respect of any statement, representation, warranty or undertaking, made by or on behalf of any other party in relation to our contract which is not already set out in these T&Cs.
- 10.3 The construction, validity, and performance of the Agreement (including the T&Cs) is governed by German law.
- 10.4 The Parties accept the jurisdiction of the German courts, such that any proceedings by you against Upsolut shall only be brought in German courts (and you agree not to argue that the courts of Germany are not an appropriate forum to hear and determine such proceedings). Notwithstanding the foregoing nothing in this Agreement shall prevent the Upsolut from taking proceedings against you in any other court of competent jurisdiction.

Hamburg, May 2023