

Last updated: March 23, 2021



## TERMS OF USE

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This website, <https://www.kelseyellis.ca> ("Site") is owned and operated by Healthy With Kelsey, a business operating under the laws of British Columbia, Canada. In these Terms, "we", "us" and "our" refer to Healthy With Kelsey and the terms "you" or "your" refer to any individual user of our Site.

**NOTICE:** It is your responsibility to carefully read these Terms of Use ("Terms") prior to using our Site or purchasing or accessing any of our services, products and free or paid offerings, including our online courses (collectively, "Offering(s)"). These Terms govern and define your use of the Site and Offering and are legally binding on you.

## USE OF OUR SITE AND OFFERINGS

When you accessed our Site and/or Offering(s) you were given reasonable notice that these Terms existed. **By accessing and continuing to use our Site or Offerings, or by clicking to accept or agree to these Terms when the option is made available to you, you expressly agree to be legally bound and abide by these Terms and our Privacy Policy whether or not you have read them.** If you do not agree with these Terms or our Privacy Policy, you must not use or access our Site.

You must be at least 16 years old in order to use our Site or the necessary age in your country of residence otherwise this is a violation of use. We reserve the right to terminate your access if it is discovered you are a minor.

While we aim to keep this Site as up-to-date as possible, we cannot guarantee that all content on our Site is entirely accurate, complete, or up to date. We reserve the right at any time to modify or discontinue, in whole or in part, any Offering or prices for any Offering on our Site, without notice. We are not liable to you or any third-party for any modification, price change, suspension or discontinuation of any Offering.

If you wish to have any of your personal information and/or access to our Site removed, you may email us at [hello@kelseyellis.ca](mailto:hello@kelseyellis.ca) and we will make reasonable efforts to do so. More information about how we collect, process and store your personal information can be found in our [Privacy Policy](#).

## COURSE USE AND CONSENT

When you purchased or opted-into any Offering on our Site, you were given reasonable notice that these Terms of Use existed. By purchasing and accessing any Offering you implicitly agree to abide by these Terms of Use, confirm you are aware of any disclaimers, and acknowledge and agree to our Privacy Policy.

By purchasing or accessing any Offering, you further warrant to us that you are at least 18 years old or the applicable age of majority in your jurisdiction. Purchasing or accessing our Offering if

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you are a minor is a violation of use, and we reserve the right to terminate your access if it is discovered you are a minor.

## **INTELLECTUAL PROPERTY AND OWNERSHIP OF RIGHTS**

### **Intellectual Property Rights**

All content, resources, materials, images, text, designs, graphics, page layouts, icons, videos, logos, taglines, trademarks (whether common law or registered), copyright, and service marks ("Intellectual Property") on our Site, Offering or posted on social media is owned by us, unless attributed otherwise. All content on the Site and in any Offering is proprietary to us and you may not modify, whether in whole or in part, and of our Intellectual Property as this is a violation of federal law.

If you wish to use, publish or refer to any of our Intellectual Property, you must do so by first requesting permission by emailing us at [hello@kelseyellis.ca](mailto:hello@kelseyellis.ca). Permission is not granted until you receive confirmation in writing from us and any terms we outline for use, which may include you providing obvious credit to us and including a back link to the webpage on our Site or to the social media platform where our Intellectual Property was originally posted. In no event do you obtain any rights or ownership in our Intellectual Property, or may you claim that it is your own content or creation.

### **LIMITED LICENSE**

Any and all materials that you access as part of any Offering through our Site or related domain are under the sole ownership or licensed use of Healthy With Kelsey including all Intellectual Property.

When you purchase or opt-in to any Offering, you receive a limited, non-transferable, non-exclusive, royalty free license for your non-commercial purposes only to access the content or materials provided to you by us as part of the Offering. You do not obtain any ownership interest or other rights to the materials and all copyrights remain with us. As a condition of your use of any materials provided to you, you may not, under any circumstances, reproduce, copy, modify, sell or use such materials except as it was originally intended when it was provided by us to you, including sharing with any third-party, including members of your business or team. If it is determined that you have breached this limited license, this will be considered infringement of our Intellectual Property rights and we specifically reserve the right to seek damages, an injunction, or any such other available legal remedy in our sole discretion.

As part of your limited, non-transferable, non-exclusive royalty-free license you may (i) access the Offering for your personal use only; (ii) download or print any of the materials provided to you as part of the Offering for your personal use or personal use in your business only; and (iii) use any of our Intellectual Property with our prior written consent so long as all materials show "©Healthy With Kelsey" as the source of the materials and marking any of our federally registered trademarks with "®" or our common law trademarks with "™". If you wish to use, publish any of our content, resources or materials provided to you as part of the Offering you must first write to us [hello@kelseyellis.ca](mailto:hello@kelseyellis.ca) and request our consent.

### **Violations and Indemnity**

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We take violations and infringement of our Intellectual Property rights seriously. We expressly reserve the right to take whatever legal steps necessary to protect and defend our Intellectual Property, and violators will be prosecuted to the fullest extent permissible by law. You agree to indemnify, defend and hold us harmless for any and all damages, costs and expenses, including legal fees, arising from your misuse of our Intellectual Property and our enforcement of our rights.

### **MEDIA RELEASE**

By purchasing any Offering, you grant us a commercial license to use any image(s), including any containing your likeness, that you submit to us whether voluntarily or by default, such as your profile picture on any social media platforms, for our future business use.

### **FEES AND REFUNDS**

#### **Fees**

Fees are as listed on our Site and in CDN dollars. We reserve the right to change our Fees at any time and without notice to you.

#### **Refunds**

We do not provide refunds. Any refunds issued will be in our sole discretion and determined on a case-by-case basis.

#### **Chargebacks**

You agree to make every attempt to request a refund prior to attempting a chargeback with your financial institution or any third party payment processor we use to process payment on our Site. By initiating any chargeback dispute, you expressly agree to forfeit any and all bonuses, affiliate bonuses, or other materials or resources provided to you. We reserve the right to present proof of your access to the Offering and your acceptance of these Terms to any third party investigating the dispute.

#### **Payment Authorization**

If any payment is recurring or made via a payment plan, you authorize our continued access to your financial information stored in any third-party payment processor we may use until your payment has been received in full and in accordance with any other payment terms accepted at the time of checkout.

### **SECURITY**

#### **Security**

If at any time you are required to create a username and password to access any Offering, it is your responsibility to protect your username and password from theft or any other means of unauthorized use that would violate these Terms. If you become aware that your password has been compromised or your account has been breached, it is your responsibility to notify us immediately by sending an email to [hello@kelseyellis.ca](mailto:hello@kelseyellis.ca).

#### **Use of Third-Party Applications**

In order to run our Site and provide our Offering, we use a number of third-party applications, such as for processing payment, delivering electronic newsletters, booking systems, hosting online coaching services and conducting appointments. For more information as to how your

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personal information is collected, stored and processed, please refer to our Privacy Policy. You understand it is your responsibility to review the terms of use for any such third-party applications. If you do not agree with the terms of use for any third-party application used by our Site, please discontinue use of our Site and Offering immediately.

### **Your Communication with Us**

By submitting a comment, photo, video or other materials to our Site, platform we use to provide the Offering or any other platform owned or maintained by us, you grant us a non-revocable, commercial license to re-publish your submission, in whole or in part, unless you expressly state that we may not do so. You acknowledge that we have no duty of privacy or confidentiality to you by accessing our Site or purchasing any Offering and we reserve our right to disclose your participation in the Offering.

Any communications made through our contact form, blog comments, membership community, social media pages or other related pages, or directly to our phone(s), mailing or email addresses is not held privileged or confidential and may be subject to viewing and/or distribution by third-parties. We own any and all communications displayed on our website, servers, comments, emails, or other media as permitted under law and will not give credit or pay royalties for unsolicited user-generated content such as blog comments or emails. For more information on when and how we store and use your communications or any information provided by you in those communications, please refer to our Privacy Policy.

We maintain the right to republish any communication or submission, in whole or in part, as reasonably necessary in the course of our business. You agree not to submit any content or communications that contain sensitive information or that could be illegal or serve an unlawful purpose, including, but not limited to communications that are potentially libelous or maliciously false, obscene, abusive, negligent, or otherwise harmful or inappropriate. We reserve the right, in our sole discretion, to block your access to our Site and Offering as a result of any such behaviour that we deem inappropriate.

### **Prohibited Behaviour**

By using our Site, you agree not to misuse or tamper with our Site, including but not limited to hacking, introducing viruses, trojans, worms, logic bombs or other technologically harmful material that would harm the functionality of, or jeopardize the security of our Site. We will immediately report any such breach or what we deem in our discretion to be harmful activities to the relevant law enforcement authorities. You agree to indemnify, defend and hold us harmless from any and all third-party claims, liability, damages and/or costs arising from your use and misuse of our Site and/or your breach of these Terms.

## **ASSUMPTION OF RISK AND DISCLAIMERS**

### **Assumption of Risk**

Use of this Site is at your own risk. While we host our site on a reputable platform and take commercially reasonable efforts to maintain and host the Site, we make no representations, warranties or guarantees as to your individual safety when using our Site. You further assume all risk associated with your access to and use of any information or materials provided to you on the Site, Services or any other pages, platforms or profiles maintained by us and any

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subsequent actions you choose to take, or not to take, as a result of the information, influence or educational materials provided or made available to you.

#### **Warranties Disclaimer**

We make no warranties as to our Site, the Offering or any related materials. You agree that our Site and any and all Offerings are provided “as is” and without warranty of any kind either express or implied. To the fullest extent permissible by applicable law, we expressly disclaim all warranties, including, but not limited to, warranties of merchantability, fitness for a particular purpose and non-infringement.

#### **No Guarantees**

While we may reference certain results, outcomes or situations on this Site or Offering, you understand and acknowledge that we make no guarantee as to the accuracy of any third-party statements or the likelihood of success for you as a result of any statements or testimonials contained on our Site or as part of the Offering.

#### **General Disclaimer**

To the fullest extent permitted by law, we expressly exclude any liability for any direct, indirect, or consequential loss or damage incurred by you or others in connection with the use of our Site and/or any Offering, including without limitation any liability for any accidents, delays, injuries, harm, loss, damage, death, lost profits, personal or business interruptions, misapplication of information, physical, mental, emotional, or spiritual injury or harm, loss of income or revenue, loss of business, loss of profits or contracts, anticipated savings, loss of data, loss of goodwill, and for any other loss or damage of any kind, whether caused by negligence, breach of contract, or otherwise, and whether foreseeable or unforeseeable.

We are not medical, legal, financial, or other regulated licensed professional, or if we are, your use of our Site or purchase of our Offering does not mean we are providing our professional services to you and no part of our Site, Offering or any related content or materials are to be construed as medical, legal or financial advice. We expressly disclaim any and all responsibility for any actions or omissions you choose to make as a result of using this Site and/or Offering.

#### **Earnings and Results Disclaimer**

You agree that you understand individual outcomes will vary. Case studies or testimonials are not indicative of guaranteed results. Each individual user approaches our Offering with different backgrounds, disposable fitness levels, motivation, and other factors that are outside of our control. We cannot guarantee your success or financial gain merely upon access of our Site or your use of Offering.

#### **Third Party Disclaimer**

You acknowledge and agree that we are not liable for any defamatory, offensive, or illegal conduct of any other third-party participant or user, including you.

#### **Technology Disclaimer**

We make reasonable efforts to provide you with modern, reliable technology, software, and platforms from which to access our Site and Offering. In the event of a technological failure, you accept and acknowledge that we are not in any way responsible or liable for said failure and any resulting damages to you or your business. While we will make reasonable efforts to support



you, some technological issues are outside our control and you may need to access support from a third-party provider. We do not warrant that the Site will be functional, uninterrupted, correct, complete, appropriate, or error-free, that defects will be corrected, or that any part of the Site or Offering are free of viruses or other harmful components. We do not warrant or make any representations regarding the use or the results of the use of our Site, Offering or related materials, or on third-party websites in terms of their correctness, accuracy, timeliness, reliability, or otherwise.

### **Third-Party Contributors**

We may provide content to you written by third-party contributors on our Site. While we make our best effort to ensure all of our writers are qualified in their industry and reflect our values, we make no guarantees of quality or accuracy. All written content on the Site are opinion pieces and must not be interpreted as our opinion or as specific advice. We are not liable for any third-party contributors' content or opinions. You must not rely on Site content or third-party contributors' opinions and always seek the appropriate professional advice.

### **Online Store Disclaimer**

Certain products may be available exclusively online through the Site and in limited quantities. We have made every effort to display as accurately as possible the colours and images of our products that appear on the Site. We cannot guarantee that your computer monitor's display of any colour will be accurate. We reserve the right, but are not obligated, to limit the sale of products to any person, geographic region or jurisdiction. We may exercise this right on a case-by-case basis. All descriptions of products and pricing of products are subject to change at any time without notice and we reserve the right to discontinue any product at any time. We do not warrant that the quality of any product will meet your expectations, or that any errors in the product will be corrected.

## **INDEMNIFICATION, LIMITATION OF LIABILITY, AND RELEASE OF CLAIMS**

### **Release, Indemnity and Waiver**

Our Site, Offering(s) and related materials are provided for educational and informational use only. You agree to indemnify release and save harmless Healthy With Kelsey and its directors, officers agents, employees, contractors, volunteers, heirs, executors, administrators, successors, and assigns, as applicable (collectively, "Released Parties") for any direct or indirect loss or conduct incurred as a result of your use of our Site, Offering(s) or any related communications, including as a result of any consequences incurred from technological failures such as a payment processor errors or technological malfunctions. You further waive any right you may have against the Released Parties and any legal recourse for any damages, costs, losses or expenses you may incur as a result of your use of the Site or any Offering(s). You acknowledge this release of liability is binding on your heirs, executors and anyone else who may be able to bring a legal action on your behalf in the future.

### **Limitation of Liability**

We will not be held responsible or liable in any way for the information, products, or materials that you request or receive through or in relation to our Site or the Offering. We do not assume liability for any third party conduct, accidents, delays, harm, or other detrimental or negative outcomes as a result of your access of our Site and Offering.

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### **Affiliates**

We may use affiliate links to sell certain products or Offering on our Site. In doing so, we disclaim any and all liability as a result of your purchase through one of the links, including but not limited to, the delivery, quality and safety of the purchased product or service. We will use reasonable efforts to notify you when and where we have placed affiliate links in addition to this disclaimer located in these Terms. You accept express liability for any and all consequences or benefits of clicking the affiliate links contained on our Site or related communications. You agree it is your obligation to read the terms and conditions for any affiliate site, Offering or products.

### **Termination of Your Use**

If at any time we believe that you have violated these Terms, we shall immediately terminate your use of our Site, access to Offering(s) and any related communications as we deem appropriate and in our sole discretion. At any time, we may block or revoke your access of our Site and Offering at any time without notice, and if necessary, block your IP address from further visits to our Site.

### **Full Agreement**

You acknowledge that these Terms of Use, together with our Privacy Policy constitute the full agreement relating to your use of the Site and any Offering.

### **Governing Law and Jurisdiction**

These Terms as well as our Privacy Policy are governed by and interpreted in accordance with the laws of British Columbia and the federal laws of Canada where applicable. Any disputes arising directly or indirectly from this Agreement will be submitted and heard exclusively in the courts of Vancouver, British Columbia.

### **Severability**

If any of the provisions of these Terms are found to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions will not, to the extent permitted by law, in any way be affected and will remain enforceable.

### **All Rights Reserved**

We reserve the right to update and change these Terms at any time and it is your responsibility to review these Terms periodically. You can review the most current version of our Terms at any time by visiting this page. Your continued use of or access to the Site and/or Offering affirms your acceptance of any changes to our Terms. All rights not expressly set out and granted in these Terms and Conditions of Use and/or our Privacy Policy are expressly reserved by us.

### **Contact**

If you have any questions about these Terms of Use, please send an email to:  
hello@kelseyellis.ca