



**JOHN
CRONIN**
Strength & Conditioning

TERMS OF USE

1. APPLICATION OF TERMS

1.1 By accessing and using this Website and Content, you are deemed to have read and accepted these Terms. By accessing and using the Website and Content: you agree these Terms apply.

1.2 If you do not agree to these Terms, please exit the Website immediately.

2. CHANGES

2.1 We may change these Terms at any time in our sole discretion by notifying you of the change by email or by posting a notice on the Website. Unless stated otherwise, any change takes effect from the date set out in the notice. You are responsible for ensuring you are familiar with the latest Terms. By continuing to access and use the Website and Content from the date on which the Terms are changed, you are deemed to be bound by the changed Terms.

3. INTERPRETATION

In these Terms:

Software means any software owned by us (and our licensors) that is used to provide the Website and Content.

Confidential Information means any information that is not public knowledge and that is obtained from the other party in the course of, or in connection with, the provision and use of the Content. Our Confidential Information includes Intellectual Property owned by us (or our licensors). Your Confidential Information includes the Data.

Content means the information and learning resources provided on the Website, including Content which is available to access from time to time in our sole discretion, or Content made available to you pursuant to a paid Subscription to purchase for your sole use, and/or all information and learning resources contained in any marketing and promotional communications including but not limited to newsletters emailed to you created by Professor John Cronin which may or may not be also available on the Website.

Data means all data, content, and information (including personal information) owned, held, used or created by you or on your behalf that is stored using, or inputted into, the Website.

Fees means the applicable fees for access to Content pursuant to your Subscription and purchase of the Products and resources including but not limited to Services.

Force Majeure means an event that is beyond the reasonable control of a party, excluding:

- an event to the extent that it could have been avoided by a party taking reasonable steps or reasonable care; or
- a lack of funds for any reason.

Intellectual Property Rights includes copyright and all rights anywhere in the world conferred under statute, common law or equity relating to inventions (including patents), registered and unregistered trade marks and designs, circuit layouts, data and databases, confidential information, know-how, and all other rights resulting from intellectual activity. Intellectual Property has a consistent meaning, and includes any enhancement, modification or derivative work of the Intellectual Property.

Objectionable includes being objectionable, defamatory, obscene, harassing, threatening, harmful, or unlawful in any way.

Party includes that party's permitted assigns and/or successors.

Permitted Users you who are authorised to access and use the Website and Content in accordance with clause 5.3.

Person means an individual.

Personal information means information about an identifiable, living person.

Personnel includes officers, employees, contractors and agents, but a reference to your personnel does not include us.

Products means any Online Courses, Research Bytes, Research in Action and any products that may be available on the Website from time to time.

Services means any services we provide to you including, but not limited to, Course Creating, Consulting, Mentoring and Public Speaking.

Subscription means a subscription to access Content, specifically the Online Courses and Research Bytes. These Terms shall apply together with any subscription terms detailed on the Website as at the date of Subscription. Where there is any conflict between the subscription terms and these Terms, these Terms shall prevail.

Terms means these terms of use.

We, us or our means Dee & JC Limited, company number 6340315.

Website means www.professorjohncronin.com.

You or your means you.

Words in the singular include the plural and vice versa.

A reference to a statute includes references to regulations, orders or notices made under or in connection with the statute or regulations and all amendments, replacements or other changes to any of them.

4.,PROVISION OF THE WEBSITE AND CONTENT

4.1 We must use reasonable efforts to provide the Content:

- (a) in accordance with these Terms and New Zealand law;
- (b) exercising reasonable care, skill and diligence; and
- (c) using suitably skilled, experienced and qualified personnel.

4.2 Our provision of the Content to you is non-exclusive. Nothing in these Terms prevents us from providing the Content to any other person.

4.3 The Content is provided on an "as is" basis. You acknowledge that all Content is targeted towards persons who have knowledge and experience in sport and exercise science. All persons use the Content at their own risk.

4.4 You agree as a Permitted User that the Content is for your sole and personal use and will not be shared or disclosed with other persons, either in full or in part, unless written permission is granted by us. Notwithstanding this clause, general discussions with others of knowledge and learnings which you have obtained from the Content, Products and Services available on the Website are permitted provided that actual materials are not shared or replicated and personal login details are not shared.

4.5 All Content in the Website is non-academic and non-industry credit bearing, unless otherwise stated. For enquiries for academic or industry credit-bearing courses and content please contact Professor John Cronin directly.

5. YOUR OBLIGATIONS

5.1 You must:

(a) use the Content in accordance with these Terms solely for your own internal personal and lawful purposes (including complying with the Unsolicited Electronic Messaging Act 2007); and

(b) not resell or make available the Content to any third party, or otherwise commercially exploit the Content.

5.2 When accessing the Website and Content, you must not use the Content in a manner, nor transmit, input or store any Data that breaches any third party right (including Intellectual Property Rights and privacy rights) or is Objectionable, incorrect or misleading.

5.3 Without limiting clause 5.2, no individual other than a Permitted User may access or use the Content. You may not create a link to this Website or any Content without our prior written consent. If you create a link with our permission, then you do so at your own risk and these Terms apply to your use of the Website and Content by linking to them. You indemnify us against any claims against us from third parties arising as a result of your link to our Website and Content.

6. DATA

6.1 You acknowledge that: (a) we may require access to the Data to exercise our rights and perform our obligations under these Terms; and (b) to the extent that this is necessary but subject to clause 9, we may authorise a member or members of our personnel to access the Data for this purpose.

6.2 You must arrange all consents and approvals that are necessary for us to access the Data as described in clause 6.1.

6.3 You acknowledge and agree that to the extent Data contains personal information, in collecting, holding and processing that information through the Website, we are acting as your agent for the purposes of the Privacy Act 1993 and any other applicable privacy law. You must obtain all necessary consents from the relevant individual to enable us to collect, use, hold and process that information in accordance with these Terms.

6.4 We shall use commercially reasonable efforts to restrict unauthorised access to our data and files. However, no system whether or not password protected can be entirely impenetrable. You acknowledge that it may be possible for an unauthorised third party to access, view, copy, modify or distribute the data and files you store using the Website. Use of the Website is completely at your own risk.

6.5 You indemnify us against any liability, claim, proceeding, cost, expense (including the actual legal fees charged by our solicitors) and loss of any kind arising from any actual or alleged claim by a third party that any Data infringes the rights of that third party (including Intellectual Property Rights and privacy rights) or that the Data is Objectionable, incorrect or misleading.

7. FEES

7.1 Fees are advertised on the Website and are subject to change at our discretion by notice on the Website. Fees include GST. Subscription Fees are payable each month to receive access to the online course content of the Website.

7.2 Access pursuant to a Subscription shall only remain available to you for the duration of your monthly Subscription. If your monthly Subscription expires and is not renewed, your access to the online course content of the Website shall cease.

7.3 You agree that your credit card will be automatically charged on the [date] of each month in advance until you cancel your Subscription. You agree that the monthly Subscription Fee may change by notice on the Website and thereafter your credit card will be charged in accordance with the revised Subscription Fee. No refunds will be given if you opt to cancel prior to the end of the then current month paid in advance, however you will receive access until the end of the relevant month paid notwithstanding your cancellation.

7.4 Fees for persons who have signed up for a paid subscription by 28 February 2021 become Foundation Members and their subscription fee is fixed at \$10 USD per month. Ongoing continuous subscription is required to remain as a Foundation Member.

7.5 Other Products and Services are not included in monthly Subscription Fees, and must be paid for separately as detailed on the Website. No refunds will be given for the purchase of any Content, Services or Products.

7.6 Fees for Professor John Cronin's services are for discussion and agreement with interested parties.

8. INTELLECTUAL PROPERTY

8.1 Subject to clause 8.2, title to, and all Intellectual Property Rights in, the Content, the Website, and all Underlying Systems is and remains the property of us (and our licensors). You must not dispute that ownership.

8.2 Title to, and all Intellectual Property Rights in, the Data (as between the parties) remains your property. You grant us a worldwide, non-exclusive, fully paid up, transferable, irrevocable licence to use, store, copy, modify, make available and communicate the Data for any purpose in connection with the exercise of our rights and performance of our obligations in accordance with these Terms.

8.3 To the extent not owned by us, you grant us a royalty-free, transferable, irrevocable and perpetual licence to use for our own business purposes any know-how, techniques, ideas, methodologies, and similar Intellectual Property used by us in the provision of the Content and Website.

8.4 If you provide us with ideas, comments or suggestions relating to the Content or Underlying Systems (together feedback): (a) all Intellectual Property Rights in that feedback, and anything created as a result of that feedback (including new material, enhancements, modifications or derivative works), are owned solely by us; and (b) we may use or disclose the feedback for any purpose.

8.5 You acknowledge that the Website may link to third party websites or feeds that are connected or relevant to the Content. Any link from the Website does not imply that we endorse, approve or recommend, or have responsibility for, those websites or feeds or their content or operators. To the maximum extent permitted by law, we exclude all responsibility or liability for those websites or feeds.

8.6 By registering with us and the Website, you consent to receiving communications from us including but not limited to newsletters and other marketing communications by email. We will include in such email communications the ability for you to unsubscribe from further marketing communications.

9. CONFIDENTIALITY

9.1 Each party must, unless it has the prior written consent of the other party keep confidential at all times the Confidential Information of the other party and disclose the other party's Confidential Information to its personnel or professional advisors on a need to know basis only and, in that case, ensure that any personnel or professional advisor to whom it discloses the other party's Confidential Information is aware of, and complies with this clause 9.1.

9.2 The obligation of confidentiality in clause 9.1 does not apply to any disclosure or use of Confidential Information for the purpose of performing a party's obligations, or exercising a party's rights, under these Terms; required by law or by us if required as part of a bona fide sale of our business (assets or shares, whether in whole or in part) to a third party, provided that we enter into a confidentiality agreement with the third party on terms no less restrictive than this clause 9.

10. WARRANTIES

10.1 Each party warrants that it has full power and authority to enter into, and perform its obligations, under these Terms.

10.2 To the maximum extent permitted by law: our warranties are limited to those set out in these Terms, and all other conditions, guarantees or warranties whether expressed or implied by statute or otherwise are expressly excluded and, to the extent that they cannot be excluded, liability for them is limited to NZD\$1,000.00 and we make no representation concerning the quality of the Content or Website and do not promise that the Content or Website will meet your requirements or be suitable for a particular purpose or be secure, free of viruses or other harmful code, uninterrupted or error free.

10.3 You agree and represent that if you are accessing the Website and using the Content, and accepting these Terms, for the purpose of a business, then the Consumer Guarantees Act 1993 and any other applicable consumer protection legislation does not apply to the supply of the Content or these Terms.

10.4 You agree you have not relied on any representation, warranty or agreement relating to the Website and Content that is not expressly set out in these Terms.

10.5 Where legislation or rule of law implies into these Terms a condition or warranty that cannot be excluded or modified by contract, the condition or warranty is deemed to be included in these Terms. However, our liability for any breach of that condition or warranty is limited, at our option, to supplying the Content again and/or paying the costs of having the Content supplied again (provided that such cost does not exceed our Fees for the Content).

10.6 Neither we nor any other party involved in creating, producing, or maintaining the site and/or any content on the site shall be liable under any circumstances for any direct, incidental, consequential, indirect, or punitive damages arising out of your access to or use of the site. Without limiting the foregoing, all content on the site is provided "as is" without warranty of any kind, either expressed or implied.

11. LIABILITY

11.1 To the maximum extent permitted by law, we make no representation or warranty, express or implied, as to the accuracy, legality, reliability or completeness of the Content provided via the Website or any external links, and do not accept any responsibility or liability, whether direct or indirect, or special or consequential, for any loss, damage, cost or expense of any kind or any illness, injury or death which is suffered or incurred by you or any person (whether foreseeable or not) as a result of, or by reason of, or in connection with, the provision or use and application of any of the Content, or of any person acting on or relying on any of the Content, and disclaim any responsibility to update any person in respect of the Content.

11.2 Neither party will be responsible, liable, or held to be in breach of these Terms for any failure to perform its obligations under these Terms or otherwise, to the extent that the failure is caused by the other party failing to comply with its obligations under these Terms, or by the fraud or willful misconduct of the other party or its personnel.

11.3 Each party must take reasonable steps to mitigate any loss or damage, cost or expense it may suffer or incur arising out of anything done or not done by the other party under or in connection with these Terms or the Content or Website.

12. TERM, TERMINATION AND SUSPENSION

12.1 The Website and Content are available at our sole discretion and can be updated at any time.

12.2 We may, without notice and in our sole discretion, immediately terminate these Terms, any Subscription, and the right to access and use the Website and Content.

12.3 Termination of these Terms or your Subscription does not affect either party's rights and obligations that accrued before that termination.

12.4 If you terminate a Subscription and subsequently enter into a new Subscription, the Terms which apply to the subsequent Subscription will be those available on the Website as at the date you enter into the subsequent Subscription.

12.5 No compensation is payable by us to you as a result of termination of these Terms or your Subscription, or purchase of any Content, Services or Product for whatever reason, and you will not be entitled to a refund of any Fees that you have already paid.

12.6 Except to the extent that a party has ongoing rights to use Confidential Information, at the other party's request following termination of these Terms, a party must promptly return to the other party or destroy all Confidential Information of the other party that is in the first party's possession or control.

12.7 At any time prior to one month after the date of termination, you may request a copy of any Data stored using the Website, provided that you pay our reasonable costs of providing that copy. On receipt of that request, we must provide a copy of the Data in a common electronic form. We do not warrant that the format of the Data will be compatible with any software and/or deletion of the Data stored using the Website, in which case we must use reasonable efforts to promptly delete that Data.

12.8 Without limiting any other right or remedy available to us, we may restrict or suspend your access to and use of the Website and/or delete, edit or remove the relevant Data if we consider that you have undermined, or attempted to undermine, the security or integrity of the Website; used, or attempted to use, the Website or Content for improper purposes or in a manner, other than for normal operational purposes or transmitted, inputted or stored any Data that breaches or may breach these Terms or any third party right (including Intellectual Property Rights and privacy rights), or that is or may be Objectionable, incorrect or misleading; or otherwise materially breached these Terms.

13. GENERAL

13.1 Neither party is liable to the other for any failure to perform its obligations under these Terms to the extent caused by Force Majeure.

13.2 No person other than you and us has any right to a benefit under, or to enforce, these Terms.

13.3 For us to waive a right under these Terms, that waiver must be in writing and signed by us.

13.4 If we need to contact you, we may do so by email or by posting a notice on the Website. You agree that this satisfies all legal requirements in relation to written communications.

13.5 These Terms, and any dispute relating to these Terms or the Website or Content, are governed by and must be interpreted in accordance with the laws of New Zealand. Each party submits to the non-exclusive jurisdiction of the Courts of New Zealand in relation to any dispute connected with these Terms or the Website or Content.

13.6 Clauses which, by their nature, are intended to survive termination of these Terms, including but not limited to clauses 6.6, 8, 9, 11, 12.6 to 12.9 and 13.5, continue in force.

13.7 If any part or provision of these Terms is or becomes illegal, unenforceable, or invalid, that part or provision is deemed to be modified to the extent required to remedy the illegality, unenforceability or invalidity. If a modification is not possible, the part or provision must be treated for all purposes as severed from these Terms. The remainder of these Terms will be binding on you.

13.8 Subject to clause 2.1, any variation to these Terms must be in writing and signed by both parties.

13.9 You may not assign, novate, subcontract or transfer any right or obligation under these Terms without our prior written consent, that consent not to be unreasonably withheld. You remain liable for your obligations under these Terms despite any approved assignment, subcontracting or transfer.