

MOMENTUM TRACKING — TERMS OF SERVICE

Effective Date: June 2025

Last Updated: [Insert Date]

Jurisdiction: Victoria, Australia

Website: momentumtracking.com.au

Support: support@momentumtracking.com.au

1. DEFINITIONS

1.1 “App” means the Momentum Tracking web application, website, platform, software, tools, features, interfaces, dashboards, reports, and related services made available by Momentum Tracking.

1.2 “Momentum”, “we”, “us”, or “our” means the operator of the App, being Momentum Health & Fitness, trading as Momentum Tracking, ABN 55 038 736 194.

1.3 “User”, “you”, or “your” means any individual, business, contractor, personal trainer, fitness professional, company, organisation, or other person who accesses or uses the App.

1.4 “Services” means the functionality provided through the App, including but not limited to client management, session tracking, package tracking, payment tracking, invoicing support, revenue reporting, business summaries, tax-related estimates, document generation, data storage, data export, and optional cloud sync.

1.5 “User Data” means all information, content, records, documents, client details, financial information, session records, health-related information, business information, settings, and other data entered, uploaded, stored, generated, exported, or managed by you through the App.

1.6 “Personal Information” has the meaning given under the Privacy Act 1988 (Cth).

1.7 “Sensitive Information” includes health information and other sensitive information under applicable privacy laws, including information collected through PAR-Q forms, injury history, medical notes, exercise limitations, health screening questions, or other health-related client data.

1.8 “Third-Party Services” means third-party providers used by the App, including but not limited to Supabase, Netlify, Stripe, analytics providers, email providers, hosting providers, payment processors, and infrastructure services.

2. ACCEPTANCE OF TERMS

2.1 By accessing, creating an account, subscribing to, or using the App, you agree to be legally bound by these Terms of Service.

2.2 If you use the App on behalf of a business, company, partnership, or other entity, you confirm that you have authority to bind that entity to these Terms.

2.3 You must not use the App if you do not agree to these Terms.

2.4 You confirm that you are at least 18 years of age and legally capable of entering into a binding agreement.

2.5 Continued use of the App after changes to these Terms constitutes acceptance of the updated Terms.

3. DESCRIPTION OF SERVICES

3.1 Momentum Tracking is a business management tool designed primarily for personal trainers, online coaches, fitness professionals, and related service providers.

3.2 The App may include tools for tracking clients, training sessions, session packs, payments, invoices, expenses, revenue, projections, business performance, tax-related summaries, and client documentation.

3.3 The App is intended to assist with record-keeping and business organisation. It is not intended to replace professional accounting, legal, tax, financial, medical, or compliance advice.

3.4 Certain parts of the App may operate locally in your browser. Other parts may rely on cloud services, account-based storage, payment processors, or other third-party systems.

3.5 We may add, remove, update, suspend, modify, replace, or discontinue any feature of the App at any time.

3.6 We do not guarantee that the App will meet every requirement of your business, comply with every industry-specific obligation applicable to you, or be suitable for every business model.

4. ACCOUNT REGISTRATION AND ACCESS

4.1 To access certain features, you may need to create an account or provide information such as your name, email address, business name, ABN, payment details, or other account information.

4.2 You agree to provide accurate, complete, and current information when creating or maintaining your account.

4.3 You are responsible for keeping your login details, device, browser, password manager, email account, and related access methods secure.

4.4 You are responsible for all activity that occurs under your account, whether authorised by you or not, unless caused directly by our proven negligence or breach of law.

4.5 You must notify us promptly if you become aware of unauthorised access, suspected misuse, compromised credentials, data loss, or any security incident affecting your use of the App.

4.6 We may suspend access to your account if we reasonably suspect unauthorised access, misuse, security risk, payment failure, breach of these Terms, or unlawful conduct.

5. LICENCE AND INTELLECTUAL PROPERTY

5.1 Subject to your compliance with these Terms, we grant you a limited, revocable, non-exclusive, non-transferable licence to access and use the App for your lawful internal business purposes.

5.2 This licence does not transfer ownership of the App, software, source code, database structure, interface design, workflows, branding, templates, trade marks, documentation, business logic, or intellectual property to you.

5.3 All rights, title, and interest in the App remain owned by us or our licensors.

5.4 You must not copy, reproduce, modify, adapt, translate, sell, rent, lease, sublicense, distribute, mirror, scrape, reverse-engineer, decompile, disassemble, extract source code, create derivative works from, or commercially exploit the App unless expressly permitted in writing.

5.5 You must not use the App to build or assist in building a competing product, service, software tool, platform, dashboard, or commercial tracking system.

5.6 You retain ownership of your User Data, subject to the rights you grant us under these Terms to operate, host, store, process, transmit, display, back up, troubleshoot, improve, and support the App.

6. USER DATA AND OWNERSHIP

6.1 You retain ownership of all User Data you enter into the App.

6.2 You grant us a limited licence to process User Data solely to provide, maintain, secure, improve, troubleshoot, support, and operate the App.

6.3 You are responsible for ensuring that all User Data is accurate, lawful, up to date, complete, and appropriate for the purpose for which it is entered.

6.4 We do not independently verify the accuracy, completeness, legality, or suitability of User Data.

6.5 You must not enter data into the App unless you have the legal right, permission, consent, authority, or other lawful basis to do so.

6.6 If you enter client data, employee data, contractor data, business data, financial data, health information, or other personal information, you remain responsible for complying with all laws that apply to your collection and use of that information.

6.7 You acknowledge that the App is a tool used by you, and that you remain responsible for your own business operations, client relationships, tax reporting, legal obligations, privacy obligations, and professional responsibilities.

7. USER RESPONSIBILITIES

7.1 You are solely responsible for the way you use the App.

7.2 You are responsible for ensuring that your use of the App complies with all laws, regulations, professional standards, industry rules, business obligations, client agreements, tax requirements, privacy requirements, consumer-law requirements, and contractual obligations that apply to you.

7.3 You are responsible for obtaining all required consents from your clients before entering their information into the App.

7.4 You are responsible for making sure your clients understand what information you collect, why you collect it, where it may be stored, how it may be used, and how they may request access, correction, or deletion where applicable.

7.5 You are responsible for maintaining your own backups, exports, accounting records, tax records, invoices, client files, and business documents.

7.6 You must not rely solely on the App as your only record of business, tax, client, payment, or health-related information.

7.7 You are responsible for reviewing all reports, summaries, invoices, tax estimates, BAS estimates, revenue projections, and financial outputs before relying on them.

7.8 You acknowledge that data entered incorrectly may produce incorrect outputs, calculations, summaries, invoices, projections, reports, or recommendations.

8. DATA STORAGE, LOCAL STORAGE, CLOUD SYNC AND BACKUPS

8.1 The App may store data locally in your browser using technologies such as localStorage, IndexedDB, cookies, browser cache, or similar browser-based storage.

8.2 Where cloud sync is enabled, User Data may also be stored in cloud infrastructure such as Supabase or other database providers.

8.3 You acknowledge that local browser storage can be deleted, corrupted, overwritten, blocked, reset, or cleared by actions including clearing browser cache, clearing site data, uninstalling the browser, changing browser settings, using private browsing modes, reinstalling your operating system, changing devices, browser updates, security software, storage limits, or device failure.

8.4 Critical warning: clearing browser data, cache, cookies, localStorage, or site data may permanently delete local records. Unless cloud sync is enabled and functioning correctly, this data may not be recoverable.

8.5 We do not guarantee that User Data stored locally will be retained, recoverable, accurate, complete, or available at all times.

8.6 We strongly recommend that you regularly export and back up all important data outside the App.

8.7 You are responsible for confirming that any cloud sync feature is enabled, functioning, and successfully syncing your data.

8.8 We are not responsible for loss of User Data caused by browser clearing, device damage, user error, account misuse, third-party service failure, browser limitations, incorrect settings, internet interruptions, or failure to maintain backups, except to the extent liability cannot be excluded by law.

9. ACCEPTABLE USE

9.1 You must use the App lawfully, responsibly, and only for legitimate business purposes.

9.2 You must not use the App to store, process, transmit, upload, generate, or manage unlawful, misleading, fraudulent, harmful, abusive, defamatory, discriminatory, infringing, or unauthorised material.

9.3 You must not use the App to collect or store personal information, sensitive information, or health information without the required consent, authority, lawful basis, or disclosure to the relevant individuals.

9.4 You must not attempt to gain unauthorised access to the App, other user accounts, databases, servers, systems, source code, infrastructure, or third-party integrations.

9.5 You must not interfere with, overload, damage, disrupt, scrape, crawl, reverse-engineer, bypass, attack, test, probe, or compromise the App's security, infrastructure, access controls, or performance.

9.6 You must not upload viruses, malware, scripts, automated tools, malicious code, or any technology that may damage, impair, or interfere with the App.

9.7 You must not use the App in a way that could harm our reputation, breach another person's rights, breach applicable laws, or expose us to legal, regulatory, commercial, or security risk.

9.8 We may suspend or terminate your access if we reasonably believe you have breached this section.

10. PAYMENTS, SUBSCRIPTIONS AND BILLING

10.1 Some features of the App may be free, paid, subscription-based, usage-based, one-off, trial-based, or subject to separate pricing terms.

10.2 If you purchase a paid plan, you agree to pay all fees, charges, taxes, and amounts associated with that plan.

10.3 Payment processing may be handled by Stripe or another third-party payment provider. You agree that payment providers may process your payment information under their own terms and privacy policies.

10.4 Unless otherwise stated, subscription fees are billed in advance and may renew automatically at the end of each billing period.

10.5 You are responsible for keeping payment details current and ensuring payments are successful.

10.6 If payment fails, we may retry payment, restrict access, suspend your account, downgrade your plan, or terminate your access.

10.7 We may change pricing, features, limits, or plan structures by giving reasonable notice where required.

10.8 Unless required by law, fees are non-refundable once paid, including for unused time, change of mind, failure to use the App, business closure, or partial billing periods.

10.9 Nothing in this section limits any rights you may have under the Australian Consumer Law or other non-excludable laws.

11. SERVICE AVAILABILITY, CHANGES AND MAINTENANCE

11.1 We aim to provide a reliable service but do not guarantee that the App will be uninterrupted, error-free, secure, compatible, virus-free, or available at all times.

11.2 The App may be unavailable due to maintenance, updates, outages, internet issues, hosting failures, database failures, payment provider failures, security incidents, browser changes, third-party service interruptions, or events beyond our control.

11.3 We may modify, suspend, replace, restrict, remove, or discontinue any part of the App at any time.

11.4 We may release updates that change functionality, appearance, storage methods, integrations, calculations, reports, pricing, or available features.

11.5 We are not liable for loss arising from downtime, maintenance, updates, discontinued features, third-party service issues, or temporary unavailability, except to the extent liability cannot be excluded by law.

12. THIRD-PARTY SERVICES

12.1 The App may rely on Third-Party Services including Supabase, Netlify, Stripe, email providers, analytics tools, hosting providers, database providers, cloud infrastructure, or other software services.

12.2 Your use of Third-Party Services may be subject to their own terms, privacy policies, security practices, uptime commitments, data-processing arrangements, and fees.

12.3 We do not control Third-Party Services and are not responsible for their acts, omissions, outages, pricing changes, data handling, errors, downtime, security incidents, or discontinuation.

12.4 If a Third-Party Service becomes unavailable, changes its functionality, changes its pricing, changes its policies, or stops supporting a feature, the App may be affected.

12.5 You acknowledge that Third-Party Services are part of modern software delivery and that some risk exists when using cloud-based systems.

13. NO PROFESSIONAL ADVICE

13.1 The App is a record-keeping, tracking, reporting, and administrative tool.

13.2 The App does not provide legal, financial, accounting, taxation, medical, health, insurance, employment, compliance, or professional advice.

13.3 Any revenue figures, GST estimates, BAS estimates, PAYG estimates, tax summaries, profit figures, session reports, projections, invoices, payment records, business summaries, or generated documents are general tools only.

13.4 You must obtain advice from qualified professionals, including accountants, solicitors, tax agents, medical practitioners, insurers, or other advisers where appropriate.

13.5 You must independently verify all outputs before relying on them for tax lodgements, client communications, legal documents, payment claims, business decisions, financial reporting, or compliance.

13.6 We are not responsible for decisions you make based on information generated, calculated, displayed, exported, or stored by the App.

14. HEALTH AND CLIENT INFORMATION

14.1 The App may allow you to store health-related information, including PAR-Q responses, injury notes, exercise restrictions, medical conditions disclosed by clients, screening information, fitness goals, and other sensitive information.

14.2 Health information is sensitive and may be subject to privacy, health-records, professional, contractual, and ethical obligations.

14.3 You are responsible for obtaining explicit and informed consent before entering health information into the App.

14.4 You must ensure your clients understand that their information may be stored digitally and, where cloud sync is enabled, may be stored using cloud infrastructure.

14.5 You must not enter health information into the App unless you are legally permitted to collect, store, use, and manage that information.

14.6 You remain responsible for your client screening, duty of care, referral obligations, professional judgement, exercise prescription, emergency response, and compliance with any obligations that apply to you as a trainer, coach, or business operator.

14.7 The App does not assess whether a client is medically cleared to train, whether a program is safe, or whether a health condition requires professional medical review.

14.8 You must not use the App as a substitute for medical advice, allied health advice, risk screening, professional judgement, or emergency care.

15. TERMINATION AND SUSPENSION

15.1 We may suspend, restrict, or terminate your access to the App if you breach these Terms, fail to pay fees, misuse the App, create security risk, breach law, infringe rights, abuse support channels, compromise data, or engage in conduct that may harm us, other users, or the App.

15.2 We may suspend access immediately where we reasonably consider it necessary to protect the App, users, data, security, infrastructure, or legal position.

15.3 You may stop using the App at any time. If you are on a paid subscription, cancellation terms may apply according to your plan.

15.4 Upon termination, your right to access and use the App ends immediately.

15.5 You are responsible for exporting any User Data before termination, cancellation, or account closure.

15.6 We may delete, retain, anonymise, or disable access to data following termination in accordance with our Privacy Policy, legal obligations, operational requirements, and data-retention practices.

15.7 Sections intended to survive termination continue to apply, including intellectual property, user responsibilities, payment obligations, limitation of liability, indemnity, privacy, dispute resolution, and governing law.

16. AUSTRALIAN CONSUMER LAW

16.1 Nothing in these Terms excludes, restricts, or modifies any consumer guarantee, right, remedy, liability, or obligation that cannot lawfully be excluded, restricted, or modified under the Australian Consumer Law or any other

applicable law.

16.2 Where services supplied by us are subject to non-excludable guarantees, our liability is limited, where permitted by law, to resupplying the services or paying the cost of having the services supplied again.

16.3 This section prevails over any other part of these Terms to the extent of inconsistency.

16.4 You acknowledge that some parts of the App may be used for business purposes and that certain consumer protections may apply differently depending on the nature of your use, the transaction, and applicable law.

17. LIMITATION OF LIABILITY

17.1 To the maximum extent permitted by law, the App is provided on an “as is” and “as available” basis.

17.2 We do not guarantee that the App will be uninterrupted, error-free, secure, accurate, complete, current, compatible with every device or browser, or suitable for your specific business needs.

17.3 To the maximum extent permitted by law, our total aggregate liability for all claims arising out of or relating to the App, the Services, or these Terms is limited to the greater of:

- (a) the total fees paid by you to us for the App in the 12 months before the event giving rise to the claim; or
- (b) AUD \$100.

17.4 To the maximum extent permitted by law, we are not liable for indirect, incidental, special, punitive, exemplary, consequential, or economic loss, including loss of profit, revenue, goodwill, opportunity, data, business interruption, expected savings, client relationships, tax outcomes, compliance outcomes, or reputation.

17.5 We are not liable for loss caused by incorrect data entry, failure to back up data, browser clearing, device failure, internet failure, third-party services, user error, unauthorised access caused by your security practices, or reliance on App outputs without professional verification.

17.6 Nothing in these Terms excludes liability that cannot be excluded under applicable law.

18. INDEMNITY

18.1 You agree to indemnify and hold harmless Momentum, its officers, employees, contractors, developers, suppliers, and representatives from and against any claims, losses, damages, liabilities, costs, expenses, and legal fees arising out of or related to:

- (a) your use or misuse of the App;
- (b) your breach of these Terms;
- (c) your breach of law;
- (d) your breach of privacy, health, tax, consumer, employment, or professional obligations;
- (e) your collection, storage, use, disclosure, or handling of client data;
- (f) any User Data entered, stored, processed, generated, or exported by you;
- (g) any dispute between you and your clients, staff, contractors, accountants, business partners, or third parties.

18.2 This indemnity does not apply to the extent a claim is caused by our fraud, wilful misconduct, or liability that cannot be excluded by law.

19. DISPUTE RESOLUTION

19.1 If a dispute arises under these Terms, either party must first give written notice describing the dispute and the outcome sought.

19.2 The parties must attempt to resolve the dispute in good faith through negotiation for at least 30 days.

19.3 If the dispute is not resolved within 30 days, the parties agree to attempt mediation in Melbourne, Victoria, unless another location or online mediation process is agreed.

19.4 The costs of mediation will be shared equally unless otherwise agreed.

19.5 Neither party may commence court proceedings until the negotiation and mediation steps have been attempted, except where urgent injunctive or equitable relief is required.

20. FORCE MAJEURE

20.1 We are not liable for any failure or delay caused by events outside our reasonable control.

20.2 This includes natural disasters, fire, flood, pandemic, war, terrorism, civil unrest, labour disputes, power failure, internet failure, cyber incidents, third-party outages, government action, regulatory change, hosting failure, payment-provider failure, or cloud infrastructure failure.

21. CHANGES TO THESE TERMS

21.1 We may update these Terms from time to time.

21.2 Updated Terms may be posted on the website, shown in the App, sent by email, or otherwise made available to you.

21.3 Continued use of the App after the effective date of updated Terms constitutes acceptance.

21.4 If you do not agree to updated Terms, you must stop using the App.

22. GENERAL TERMS

22.1 If any part of these Terms is invalid, unlawful, or unenforceable, that part will be read down or severed to the minimum extent necessary, and the remaining Terms will continue in effect.

22.2 These Terms, together with the Privacy Policy and any applicable subscription terms, form the entire agreement between you and us regarding the App.

22.3 You must not assign or transfer your rights under these Terms without our written consent.

22.4 We may assign, transfer, subcontract, or novate our rights and obligations in connection with a business sale, restructure, merger, acquisition, asset transfer, or operational change.

22.5 A failure to enforce any right under these Terms is not a waiver of that right.

23. GOVERNING LAW

23.1 These Terms are governed by the laws of Victoria, Australia.

23.2 The parties submit to the non-exclusive jurisdiction of the courts of Victoria and any courts entitled to hear appeals from those courts.

24. CONTACT

Momentum Tracking

Momentum Health & Fitness

ABN: 55 038 736 194

Website: momentumtracking.com.au

Email: support@momentumtracking.com.au