

## **PROSTAR COACH TERMS OF SERVICE**

The following definition applies to the terms as they appear in this agreement: **ProStar** means ProStar Coach, the database software used in creating this service and all versions of the service, including, but not limited to **Strong for Performance, Coaching on Demand (powered by Strong for Performance) and Strong for Achievement**.

ProStar Coach is a self-directed learning service delivered online at the website prostarcoach.com by Performance Support Systems, Inc. (referred to in the terms of service as "PSS"). The ProStar terms of service govern your access to and use of the services of ProStar and any information, text, graphics, or other materials uploaded, downloaded or appearing on the services, collectively referred to as "content." Your access to and use of the services is conditioned on your acceptance of and compliance with these terms. By accessing or using the services you agree to be bound by these terms.

### **Basic Terms**

Each ProStar Coach subscription is a single account for one person only. You may not share your account and the content delivered to your pages with anyone else.

You are responsible for your use of ProStar services, for any content you post to your ProStar pages, and for any consequences thereof.

The content you submit, post, or display can be viewed only by you and the selected members of your Coaching Network that you share it with. Therefore, you should only provide content that you are comfortable sharing with them under these terms.

You may use the ProStar services only if you can form a binding contract with PSS and are not a person barred from receiving services under the laws of the United States or other applicable jurisdiction. You may use the services only in compliance with these terms and all applicable local, state, national, and international laws, rules and regulations.

The ProStar services are always evolving, so their form may change and new features may be added from time to time without prior notice to you. In addition, PSS may stop (permanently or temporarily) providing a feature and may not be able to provide you with prior notice.

### **Privacy**

Any information you provide while using ProStar self-directed development services is subject to our strict **Privacy Policy**, which governs our collection and use of your information. You understand that through your use of the services you consent to the collection and use (as set forth in the Privacy Policy) of this information, including the transfer of this information to the United States and/or other countries for data storage, processing and use by PSS. As part of providing you the services, we may need to provide you with certain communications, such as service announcements and administrative messages. These communications are considered part of the services and your ProStar account, which you may not be able to opt-out from receiving. However, you may opt-out of other communications from PSS.

## **Passwords**

You are responsible for safeguarding the password that you use to access the ProStar services and for any activities or actions under your password. We encourage you to use “strong” passwords (passwords that use a combination of upper and lower case letters, numbers and symbols) with your account. PSS cannot and will not be liable for any loss or damage arising from your failure to comply with the above requirements.

## **Content on ProStar**

Performance Support Systems, Inc., is responsible only for the content it posts on ProStar.

All other content, including learning exercises, personal messages or other information, is the sole responsibility of the person who originated it. We do not monitor or control the content posted via the ProStar services, and we cannot take responsibility for such content. Any use or reliance on any content or materials posted via the services or obtained by you through the services is your responsibility.

We do not endorse, support, represent or guarantee the completeness, truthfulness, accuracy, or reliability of any content or communications posted via the services or endorse any opinions expressed via the services. You understand that by using the services, you may be exposed to content from other users that might be offensive, harmful, inaccurate or otherwise inappropriate. Under no circumstances will PSS be liable in any way for any content, including, but not limited to, any errors or omissions in any content, or any loss or damage of any kind incurred as a result of the use of any content posted, emailed, transmitted or otherwise made available via the services or broadcast elsewhere.

## **Your Rights**

You retain your rights to any original content you submit, post or display on or through the services.

You are responsible for your use of the services, for any content you provide, and for any consequences thereof, including the use of your content by other users. PSS will not be responsible or liable for any use of your content via ProStar in accordance with these terms. You represent and warrant that you have all the rights, power and authority necessary to confer the rights granted herein to any content that you submit.

PSS gives you a personal, worldwide, royalty-free, non-assignable and non-exclusive license to use the software that is provided to you by ProStar as part of the services. This license is for the sole purpose of enabling you to use and enjoy the benefit of the services as provided by ProStar in the manner permitted by these terms.

## **Performance Support Services, Inc., Rights**

All right, title, and interest in and to the ProStar services (excluding content provided by users) are and will remain the exclusive property of Performance Support Systems, Inc. and its licensors. The services are protected by copyright, trademark, and other laws of both the United States and foreign countries.

Nothing in the terms gives you a right to use the ProStar Coach name or any of the ProStar trademarks, logos, domain names, and other distinctive brand features.

Any feedback, comments, or suggestions you may provide regarding ProStar, or the services is entirely voluntary and we will be free to use such feedback, comments or suggestions as we see fit and without any obligation to you.

### **Restrictions on Content and Use of the Services**

PSS reserves the right at all times (but will not have an obligation) to remove or refuse to distribute any Content on the Services and to terminate users or reclaim usernames. Please review the **ProStar Rules** (below) to better understand what is prohibited on the service. We also reserve the right to access, read, preserve, and disclose any information as we reasonably believe is necessary to (i) satisfy any applicable law, regulation, legal process or governmental request, (ii) enforce the terms of use, including investigation of potential violations hereof, (iii) detect, prevent, or otherwise address fraud, security or technical issues, (iv) respond to user support requests, or (v) protect the rights, property or safety of ProStar, its users and the public.

### **PROSTAR RULES**

Our goal is to provide a service that allows you to learn from content that interests you as well as to share your content with others. We respect the ownership of the content that users share and each user is responsible for the content he or she provides. Because of these principles, we do not actively monitor user's content and will not censor user content, except in limited circumstances described below. You may not do any of the following while accessing or using ProStar services:

#### **A. Unauthorized Use**

You may not...

1. Share your ProStar Coach account with another person.
2. Access, tamper with, or use non-public areas of the services, ProStar's computer systems, or the technical delivery systems of ProStar's providers.
3. Probe, scan, or test the vulnerability of any system or network or breach or circumvent any security or authentication measures.
4. Access or search or attempt to access or search the services by any means (automated or otherwise) other than through our currently available, published interfaces that are provided by ProStar (and only pursuant to those terms and conditions), unless you have been specifically allowed to do so in a separate agreement with PSS.
5. Forge any TCP/IP packet header or any part of the header information in any email or posting, or in any way use the Services to send altered, deceptive or false source-identifying information.
6. Interfere with, or disrupt, (or attempt to do so), the access of any user, host or network, including, without limitation, sending a virus, overloading, flooding, spamming, mail-bombing

the services, or by scripting the creation of content in such a manner as to interfere with or create an undue burden on the services.

## B. Content Boundaries

In order to provide the ProStar service and the ability to communicate and stay connected with others, there are some limitations on the type of content that can be entered on ProStar. These limitations comply with legal requirements and make ProStar a better experience for all. We may need to change these rules from time to time and reserve the right to do so. Please check back here to see the latest updates.

1. **Impersonation.** You may not impersonate others through the ProStar service in a manner that does or is intended to mislead, confuse, or deceive others.
2. **Trademark.** We reserve the right to reclaim user names on behalf of businesses or individuals that hold legal claim or trademark on those user names. Accounts using business names and/or logos to mislead others will be permanently suspended.
3. **Privacy.** You may not publish or post other people's private and confidential information, such as credit card numbers, street address or Social Security/National Identity numbers, without their express authorization and permission.
4. **Violence and Threats.** You may not publish or post direct, specific threats of violence against others.
5. **Copyright.** We will respond to clear and complete notices of alleged copyright infringement. Our copyright procedures are set forth in the Terms of Service.
6. **Unlawful Use.** You may not use our service for any unlawful purposes or for promotion of illegal activities. International users agree to comply with all local laws regarding online conduct and acceptable content.

## C. Spam and Abuse

PSS strives to protect its users from spam and abuse. Technical abuse and user abuse is not tolerated on ProStar, and will result in permanent suspension. Any accounts engaging in the activities specified below are subject to permanent suspension.

1. **Selling ProStar services.** Unless you have been specifically permitted to do so in a separate agreement with ProStar, you agree that you will not reproduce, duplicate, copy, sell, trade or resell the ProStar services for any purpose.
2. **Malware/Phishing.** You may not publish or link to malicious content intended to damage or disrupt another user's browser or computer or to compromise a user's privacy.
3. **Pornography.** You may not post obscene or pornographic content.
4. **Spam.** You may not use the ProStar service for the purpose of spamming anyone. What constitutes "spamming" will evolve as we respond to new tricks and tactics by spammers. Some of the factors that we take into account when determining what conduct is considered to be spamming are:
  - a. The number of spam complaints that have been filed against you

- b. If you post duplicate content over multiple accounts or multiple duplicate updates on one account
- c. If you post multiple unrelated updates to a topic
- d. If you send large numbers of duplicate replies
- e. If you send large numbers of unsolicited replies
- f. If you repost other user's content without attribution
- g. If you have attempted to "sell" other ProStar members, particularly through tactics considered aggressive

Accounts engaging in any of these behaviors may be investigated for abuse. Accounts under investigation may be removed. PSS reserves the right to immediately terminate your account without further notice in the event that, in its judgment, you violate these Rules or the Terms of Service.

### **Copyright Policy**

Performance Support Systems, Inc. respects the intellectual property rights of others and expects users of the services to do the same. We will respond to notices of alleged copyright infringement that comply with applicable law and are properly provided to us. If you believe that your content has been used in a way that constitutes copyright infringement, please provide us with the following information: (i) a physical or electronic signature of the copyright owner or a person authorized to act on their behalf; (ii) identification of the copyrighted work claimed to have been infringed; (iii) identification of the material that is claimed to be infringing or to be the subject of infringing activity and that is to be removed or access to which is to be disabled, and information reasonably sufficient to permit us to locate the material; (iv) your contact information, including your address, telephone number, and an email address; (v) a statement by you that you have a good faith belief that use of the material in the manner complained of is not authorized by the copyright owner, its agent, or the law; and (vi) a statement that the information in the notification is accurate, and, under penalty of perjury, that you are authorized to act on behalf of the copyright owner.

We reserve the right to remove content alleged to be infringing without prior notice and at our sole discretion. In appropriate circumstances, ProStar will also terminate a user's account if the user is determined to be a repeat infringer.

### **The Services are Available "AS-IS"**

Your access to and use of ProStar services or any content is at your own risk. You understand and agree that the services are provided to you on an "AS IS" and "AS AVAILABLE" basis. Without limiting the foregoing, PSS AND ITS PARTNERS DISCLAIM ANY WARRANTIES, EXPRESS OR IMPLIED, OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT. We make no warranty and disclaim all responsibility and liability for the completeness, accuracy, availability, timeliness, security or reliability of the Services or any content thereon. PSS will not be responsible or liable for any harm to your computer system, loss of data, or other harm that results from your access to or use of ProStar services, or any content. You also agree that PSS has no responsibility or liability for the deletion of, or the failure to store or to transmit, any Content and other communications maintained by

the Services. We make no warranty that the Services will meet your requirements or be available on an uninterrupted, secure, or error-free basis. No advice or information, whether oral or written, obtained from PSS or through the Services, will create any warranty not expressly made herein.

### **Links**

The Services may contain links to third-party websites or resources. You acknowledge and agree that we are not responsible or liable for: (i) the availability or accuracy of such websites or resources; or (ii) the content, products, or services on or available from such websites or resources. Links to such websites or resources do not imply any endorsement by PSS of such websites or resources or the content, products, or services available from such websites or resources. You acknowledge sole responsibility for and assume all risk arising from your use of any such websites or resources.

### **Limitation of Liability**

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, PSS AND ITS SUBSIDIARIES, AFFILIATES, OFFICERS, EMPLOYEES, AGENTS, PARTNERS AND LICENSORS WILL NOT BE LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR PUNITIVE DAMAGES, INCLUDING WITHOUT LIMITATION, LOSS OF PROFITS, DATA, USE, GOOD-WILL, OR OTHER INTANGIBLE LOSSES, RESULTING FROM (i) YOUR ACCESS TO OR USE OF OR INABILITY TO ACCESS OR USE THE SERVICES; (ii) ANY CONDUCT OR CONTENT OF ANY THIRD PARTY ON THE SERVICES, INCLUDING WITHOUT LIMITATION, ANY DEFAMATORY, OFFENSIVE OR ILLEGAL CONDUCT OF OTHER USERS OR THIRD PARTIES; (iii) ANY CONTENT OBTAINED FROM THE SERVICES; AND (iv) UNAUTHORIZED ACCESS, USE OR ALTERATION OF YOUR TRANSMISSIONS OR CONTENT, WHETHER BASED ON WARRANTY, CONTRACT, TORT (INCLUDING NEGLIGENCE) OR ANY OTHER LEGAL THEORY, WHETHER OR NOT PSS HAS BEEN INFORMED OF THE POSSIBILITY OF SUCH DAMAGE, AND EVEN IF A REMEDY SET FORTH HEREIN IS FOUND TO HAVE FAILED OF ITS ESSENTIAL PURPOSE.

### **Exclusions**

Some jurisdictions do not allow the exclusion of certain warranties or the exclusion or limitation of liability for consequential or incidental damages, so the limitations above may not apply to you.

### **Waiver and Severability**

The failure of PSS to enforce any right or provision of these terms of service will not be deemed a waiver of such right or provision. In the event that any provision of these terms is held to be invalid or unenforceable, the remaining provisions of these terms will remain in full force and effect.

### **Controlling Law and Jurisdiction**

These terms and any action related thereto will be governed by the laws of the Commonwealth of Virginia without regard to or application of its conflict of law provisions or your state or country of residence. All claims, legal proceedings or litigation arising in connection with ProStar services will be brought solely in the city of Newport News, Virginia, and you consent to the jurisdiction of and venue in

such courts and waive any objection as to inconvenient forum. If you are accepting these terms on behalf of a United States federal government entity that is legally unable to accept the controlling law, jurisdiction or venue clauses above, then those clauses do not apply to you but instead these terms and any action related thereto will be governed by the laws of the United States of America (without reference to conflict of laws) and, in the absence of federal law and to the extent permitted under federal law, the laws of the Commonwealth of Virginia (excluding choice of law).

### **Entire Agreement**

These terms, the ProStar Rules and our Privacy Policy are the entire and exclusive agreement between PSS and you regarding our services (excluding any services for which you have a separate agreement with PSS that is explicitly in addition or in place of these terms), and these terms supersede and replace any prior agreements between PSS and you regarding the Services.

We may revise these terms from time to time, and the most current version will always be at [prostarcoach.com/coach](http://prostarcoach.com/coach). If the revision, in our sole discretion, is material we will notify you via a Coaching Network post or e-mail to the email associated with your account. By continuing to access or use the services after those revisions become effective, you agree to be bound by the revised terms.

These services are operated and provided by Performance Support Systems, Inc., 8270 Little England Rd., Hayes, VA 23072. If you have any questions about these Terms, please Contact Us at 757-656-4768.