

Octathalon Ltd

License Agreement for Personal Trainers

License agreement to use the OCTATHALON LTD Training materials to run Octathalon courses & Octathalon classes

Between **OCTATHALON LTD** (Licensor) and its Trainers (Licensees)

This license agreement sets out the terms and conditions on which the Licensor is willing to license the Licensee to use OCTATHALON LTD training materials (as defined in clause 1 below) for the purposes running courses and classes (the Permitted Purposes) (as defined in clause 1) in the Licensee's workplace (as defined in clause 1) as long as they are a licensed Octathalon Trainer who has been given a license by OCTATHALON LTD

1. Definition

For the purposes of this License agreement:

The OCTATHALON LTD training materials means originals and copies of any and all training materials that the Licensor sends or makes available to the Licensee from time to time, including (without limitation) those OCTATHALON LTD training materials set out in section 1 of the Schedule 1 to this license agreement as supplemented, adapted or modified by the Licensor or Licensee from time to time and any new materials based wholly or partly on the content, structure or ideas contained in any of those OCTATHALON LTD training materials; and

Courses and classes (the Permitted Purposes) - means the Octathalon Induction courses, the Yellow Grade Guidebook classes, the Open Octathalon classes, as run by licensed Octathalon Trainers, the internal Octathalon competitions for the members from within the licensee's workplace; and

Licensee's workplace means the Health and Leisure club premises where the licensee works as set out in Section 2 of Schedule 1; and

Internal Octathalon competitions, mean those events that are being only held for the members of the Licensee's workplace, and

Octathalon Trainer(s) who has (have) been licensed by OCTATHALON LTD means any person who has been given a licence by the OCTATHALON LTD and only licensed Octathalon trainers are allowed to run the courses and classes in the Licensee's workplace for the time specified in the terms and conditions of this agreement: and

Licensee's members mean any person who holds a membership of any type in the Licensee's workplace and where no membership system exists it means any person attending one of the Licensee's Courses and/or classes

2. License

The Licensor hereby grants and the Licensee hereby accepts a non-exclusive, non-transferable license (the License) to use the OCTATHALON LTD training materials and run the Courses and classes (the permitted purposes) subject to the terms and conditions of this License Agreement.

3. Term

The License is valid for the same length of time that the licensee is a member of the OCTATHALON LTD website at yellow grade level or above.

4. Payments

Subject to the terms and conditions of any renewal of the License under clause 3, the Licensee shall make payment to the Licensor for the running of the Courses and classes (the Permitted Purposes) pursuant to any terms set forth in Schedule 3 & Schedule 4, attached hereto.

The Licensee shall make payment to cover any costs that may be incurred by the Licensor associated with obtaining the Licensor's approval to any adaptation, modification or reproduction of any of the OCTATHALON LTD training materials under clause 5.3 and for any reproduction costs associated with any adaptation, modification or reproduction of any of the OCTATHALON LTD training materials.

5. Use of OCTATHALON LTD Training Materials

The Licensee may only use the OCTATHALON LTD training materials for the Permitted Purposes and may not use any of the OCTATHALON LTD training materials for any other purpose(s) without the written prior consent of and entering into a separate license agreement on terms to be negotiated with the Licensee.

The Licensee may, with the Licensor's prior written agreement, adapt and / or modify the OCTATHALON LTD training materials in order to customise them to fit the specific needs of the Health and Leisure club or Health Club Chain within which the Licensee works.

The Licensee must ensure that the Licensor has had prior sight of and has provided its approval in writing to any adaptation and /or modification of any OCTATHALON LTD training materials before the Licensee commences use of such adapted and / or modified OCTATHALON LTD training materials in the delivery of any training to any of the Licensee's members under the license in order for the Licensor to assure itself that the OCTATHALON LTD training materials in question have been adapted and /or modified suitably. The Licensor's approval to any adaptation, modification, or reproduction of any OCTATHALON LTD training materials must be sought and the Licensor's approval or otherwise will be provided in accordance with the Licensor's approval process, the documentation relating to which is set out in Schedule 2 to this License agreement.

The Licensee shall not:

sell, part with possession of or distribute any OCTATHALON LTD training materials to anyone other than other licensees within its place of work who are allowed to work in that workplace and those Octathalon Trainers who have been licensed by (OCTATHALON LTD) who comply with clause 8.2.1 as part of the relevant printed course materials;

or copy or otherwise use any of the OCTATHALON LTD training materials or permit any of the OCTATHALON LTD training materials to be copied or otherwise used in contravention of any applicable laws or regulations.

Day-to-day responsibility for the control, disclosure and distribution of the OCTATHALON LTD training materials shall reside with the Licensee or such suitable representative of the Licensee as the Licensee shall

nominate and notify to the Licensor in writing from time to time, provided that overall responsibility and liability for ensuring compliance with (and therefore any non-compliance with) the terms and conditions of this License agreement in relation to any use of the OCTATHALON LTD training materials shall remain with the Licensee.

6. Use of Courses and classes

6.1 The Licensee may only run the Courses and classes (the Permitted Purposes) provided that they are still hold a current license, that is in the term specified above, given to them by the Licensor as trainers for these Courses and classes (the Permitted Purposes).

6.2 The Licensee may only run the Courses and classes (the Permitted Purposes) if the Licensee is using the required OCTATHALON LTD training materials and only when these required OCTATHALON LTD training materials have been purchased in advance by or on behalf of the members of the licensee's workplace who are about to start one of the Courses and classes (the Permitted Purposes) from the Licensor or as per the Licensor's directions such that the members of the Licensee's workplace that are about to start one of the Permitted Purposes have one of the relevant OCTATHALON LTD training materials to use for the Permitted Purposes.

6.3. The Licensee may only run the Courses and classes (the Permitted Purposes) as long as the required OCTATHALON LTD training materials that are being used are being used in accordance to the Licensor's instructions as set out in the OCTATHALON LTD training materials.

6.4 The Licensee under the Courses and classes (the Permitted purposes) may run internal Octathalon competitions for the members in the Licensee's workplace and must run at least one of these Octathalon events every year, as per schedule 4, and they can benefit financially or in any other way from any sponsorship that these events attract where that sponsorship has arisen entirely from the Licensee's own activities and as long as that sponsorship conforms to the requirements in clause 6.4.2.

6.4.1 The Licensee under the Courses and classes (the Permitted purposes) may run internal Octathalon competitions for the members in the Licensee's workplace and benefit financially or in any other way from any sponsorship that these events attract where that sponsorship has arisen entirely from the Licensee's own activities and that only Octathalon competitions that are recognised by OCTATHALON LTD may be run by the Licensee in accordance with this agreement.

6.4.2. Any sponsorship that the licensee generates for their internal events, or sponsorship that in any way is associated with these internal events, must conform with any rules and conditions imposed on OCTATHALON LTD from any parties that own the media and sponsorship rights to all Octathalon competitions, where sponsors have been arranged such that they are associated in any way with OCTATHALON LTD for what ever length of time that Association has been arranged with OCTATHALON LTD. (This is to avoid any potential sponsorship clashes between high level National and International sponsors and any sponsors wanting to work at a lower level of Octathalon competition. If the licensee is in any doubt about their position with any sponsor it is suggested they contact OCTATHALON LTD and to wait for their guidance and instruction on the matter.)

6.5 The Licensee shall not:

6.5.1 run the Courses and classes (the Permitted Purposes) if the Licensee does not hold a current Octathalon Trainer license and who has not been licensed by OCTATHALON LTD or;

6.5.2 run the Courses and classes (the Permitted Purposes) in another club or premises other than the licensee's workplace without the express permission of the licensor (OCTATHALON LTD) or;

6.5.3 run under the Courses and classes (the Permitted purposes) any Octathalon competitions with any other club without the full permission cooperation and involvement with the Licensor (OCTATHALON LTD).

7. No Other License

The Licensee shall neither use nor copy any of the OCTATHALON LTD training materials other than in accordance with the License expressly granted by this License agreement. The Licensee shall not disclose or distribute any of the OCTATHALON LTD training materials to any person other than in accordance with clause 5.4. The Licensee shall instruct all staff or persons that are allowed to work in the Licensee's workplace and those Octathalon Trainers who have been licensed by OCTATHALON LTD not to copy, disclose or distribute any of the OCTATHALON LTD training materials for any purpose other than the provision of training to the members of the Licensee's workplace. The Licensee shall recover from any of the staff or

persons that are allowed to work in the Licensee's workplace all OCTATHALON LTD training materials held by them upon their ceasing to be contracted to work in the Licensees' workplace and shall instruct such staff or persons that are allowed to work in the Licensee's workplace to make no further use of any information contained in the OCTATHALON LTD training materials.

8. Conditions and delivery of Training

This License agreement only relates to the use of the OCTATHALON LTD training materials and the running of the Courses and Classes (the Permitted Purposes).

The Licensee shall ensure that all training delivered by them under the License shall:

8.2.1 be conducted only by Octathalon Trainers who have been licensed and who hold a current license by OCTATHALON LTD; and

8.2.2 use only OCTATHALON LTD training materials provided or approved by the Licensor.

The Licensor will from time to time request evidence of the Licensee's delivery strategy and that this complies with clause 8.2.1.

The Licensee must ensure that all people who are doing the Licensee's courses and classes are current members of the OCTATHALON LTD website, as detailed in Schedule 4 and that this membership is current within a reasonable amount of time having started doing these classes. This amount of time should be no more than 2 weeks. The Licensee must also be a member of the OCTATHALON LTD website and the Licensee also agrees to the terms set out in Schedule 4.

The Licensor also reserves the right to verify at any time in accordance with clause 11 that the Licensee is complying with the License, that the quality of training by any Octathalon Trainers who have been licensed by OCTATHALON LTD reaches the standard set by the Licensor and that the OCTATHALON LTD training materials are being used appropriately and in accordance with the delivery of training to any of the members of the Licensee's Workplace in order to safeguard the Licensor's name and reputation for quality training delivery. Notwithstanding clause 5.3, the Licensor requires at least 10 working days notice in writing to verify the quality of and approve any adaptations and / or modifications made by the Licensee to any OCTATHALON LTD training materials before they can be used in the delivery of any training to any of the members of the Licensee's workplace. If less than 10 working days' notice is given to the Licensor by the Licensee in respect of any such adaptations or modifications or the Licensee fails to seek or obtain the Licensor's approval of any such adaptations and or modifications in accordance with the Licensor's approval process, the Licensee acknowledges that it does so at its own risk and that clause 10.1.2 may apply.

9. Trademarks, Copyright and other intellectual property rights

Subject to clause 9.2, the Licensee shall not, without prior written consent of the Licensor, use or adopt any trademark, trade name, trading style or commercial design that is identical to, similar to or may be mistaken for the whole or any part of any trademark, trading style or commercial design owned or used by either the Licensor or the OCTATHALON LTD.

In respect of any adaptation or modification made by the Licensee to any of the OCTATHALON LTD training materials under License, the Licensee recognises and agrees to respect the OCTATHALON LTD's ownership of copyright and moral rights of such OCTATHALON LTD training materials and any adaptations and modifications thereto by the Licensor or the Licensee and in particular:

The Licensee shall ensure that the ownership and original authorship of any of the OCTATHALON LTD training materials that have been adapted and / or modified by the Licensee under License shall be clearly acknowledged and recognised by ensuring that the OCTATHALON LTD logo is clearly visible on any adaptations and / or modifications of such OCTATHALON LTD training materials.

In respect to all types of Octathalon competition the Licensee recognises and agrees to respect that either the OCTATHALON LTD's or the Licensor's ownership of copyright and all media and sponsorship rights to such events other than the events referred to in 6.4

10. Termination

Without prejudice to any other right or remedy the Licensor may have under this License Agreement, at law or in equity, the Licensor may immediately terminate this License Agreement and the License by giving the Licensee notice in writing to that effect if: the Licensee commits any breach of any of the terms or conditions of this Agreement and, in the case of a breach that can be remedied, fails to remedy that breach within 30 days after receiving written notice from the Licensor identifying the breach and requiring its remedy; or

the Licensor determines during the course of any verification carried out in Clause 11 or it otherwise comes or is brought to the attention of the Licensee that the quality of any training delivered to any of the members of the Licensee's workplace by any of the Octathalon Trainers who have been licensed by OCTATHALON LTD does not reach the standards set by the Licensor.

10.2 Upon any termination (including expiry) of the License Agreement and the License, the Licensee shall send to the Licensor all the OCTATHALON LTD training materials held by any staff or persons that are allowed to work in the Licensee's workplace, including all copies made, and shall make no further use of them. Termination (including expiry) of this License Agreement shall not affect any accrued rights of the parties.

11. Verification Rights

11.1 The Licensor will, upon giving the Licensee reasonable notice (which shall be no less than 24 hours), be entitled to require sight of any such adaptations and or modifications made by the Licensee to the OCTATHALON LTD training materials to verify the quality of such adaptations and / or modifications and the Licensee's compliance with the License.

11.2 The Licensor will, upon giving the Licensee reasonable notice (which shall be no less than 24 hours), be entitled to carry out a site visit to the Licensee's Workplace or any other reasonable verification exercises to verify the standard of the delivery of training to the members of the Licensee's workplace by the Licensee using the OCTATHALON LTD training materials and any adaptations and / or modifications thereof.

12. Amendments

No amendments to or changes or modifications of this License Agreement may be made except in writing signed by authorised representatives of both of the parties

13. Warranty of Authority

The signatory to this Agreement on behalf of the Licensee represents, warrants and covenants that he/ she has the authority to enter into this agreement on behalf of the Licensee and bind the Licensee to this License Agreement.

14. Entire agreement

14.1 This License Agreement contains the entire agreement between the parties and supersedes any prior oral or written agreements, understandings, commitments or representations between parties in respect of the subject matter hereof.

14.2 The Licensor shall not be liable to the Licensee for any loss or damage arising from or in connection with any representations, agreements, statements or undertakings made prior to the date of this License Agreement other than those expressly incorporated or referred to in this License Agreement, provided that neither party in any way seeks to exclude or limit its liability for fraudulent misrepresentation or fraudulent concealment.

15. Waiver

The failure of the Licensor to enforce at any time or for any period any one or more of the terms or conditions of this License Agreement shall not be a waiver of them or the right at any time subsequently to enforce all terms and conditions of this License Agreement.

16. Notices

Any person to be served on either of the parties by the other shall be sent by prepaid recorded delivery or registered post to such address for service of the other party as it notifies the serving party from time to time or by facsimile transmission or by electronic email and shall be deemed to have been received by the addressee within 72 hours of posting or 24 hours if sent by facsimile transmission or by electronic mail to the correct facsimile number or electronic mail number of the addressee (with correct answerback)

17. Third party rights

This License Agreement does not create any right enforceable by any person who is not a party to it under the Contracts (Rights of Third Parties) Act 1999.

18. Governing Law and Jurisdiction

The validity, interpretation and performance of this License Agreement shall be governed by English law and shall be subject to the exclusive jurisdiction of the English courts, to which parties hereby submit.

Schedule 1

Section 1

The following OCTATHALON LTD training materials constitute training materials for the purposes of this License agreement:

Octathalon Yellow Grade Guidebook (This is purchased via the www.octathalon.com website & includes the cost of this license)

Octathalon Trainer Manual (must be purchased separately via the www.octathalon.com website)

Octathalon Induction Handbook (must be purchased separately via the www.octathalon.com website)

Octathalon Training Diaries (must be purchased separately via the www.octathalon.com website)

Octathalon Classes Posters (can be downloaded free from the www.octathalon.com website)

Section 2

The Health and Leisure club or gym at the time when the licensee either purchases the yellow grade guidebook or becomes a member of the www.octathalon.com website constitutes the workplace premises for the purposes of this License agreement. This is the place where the Courses and Classes can take place. If the licensee wishes to change their workplace premises they will need to make the necessary changes on their own profile page on the website to reflect the new place in which they are working in order to maintain their license.

Schedule 2 – Documentation and / or information relating to approval process.

If the Licensee would like to adapt or modify any of the OCTATHALON LTD training materials other than as directed by the OCTATHALON LTD training materials to fit into the way they wish to do business in the Licensee's workplaces the Licensee must first make an initial submission in writing to the Licensor. If the Licensor consents the adaptations and / or modifications the Licensee will then make arrangements with the Licensor if necessary to complete the adaptations and / or modifications. On completion of these adaptations and / or modifications a final approval must be obtained from the Licensor (OCTATHALON LTD) with a submission in writing from the Licensee that must include the OCTATHALON LTD training materials that have undergone adaptation and / or modification. The Licensee acknowledges that there may be a small fee payable to the OCTATHALON LTD to cover any costs associated with this.

Schedule 3 – Details of payment of license fees

The following payments become payable to the Licensor by the Licensee. The initial fee involved in the purchase of the yellow grade guidebook includes the cost of the license. The cost for this is detailed on the www.octathalon.com website. In order to maintain this license the Licensee must maintain a continual membership of this website at the minimum level of yellow grade. The annual cost of this membership is detailed on the website.

Schedule 4 – Special terms for maintaining this license

The purchase of the yellow grade guidebook constitutes legally binding acceptance of all things pertaining to this license even if no membership has been taken out. Only when the minimum yellow grade membership is taken out does the license become fully activated for personal trainers who wish to become licensee's and Octathalon trainers.

It is a requirement of maintaining this license that all people who attend the Licensee's courses and classes in the Licensee's workplace must hold current minimum membership of the www.octathalon.com website. The minimum basic white grade membership is sufficient to conform to this requirement. Details for the cost for this can be found on the www.octathalon.com website. Membership is done via online subscription to this website. Licensee's must also become members of the www.octathalon.com website. It is up to the Licensee to check that the people attending the Licensee's Courses and classes are members of the www.octathalon.com website and that if they fail to do this they run the risk of losing their (this) license.

The Licensee must run at least one Octathalon Competition each year in the Licensee's workplace as per Clause 6.4 in this agreement where only members of the www.octathalon.com website can enter. To qualify as an event in these circumstances there must be at least 10 people who enter and fully complete the event and their times must be entered into their appropriate www.octathalon.com events page where there is such place for these times to be entered. To maintain the license each year the licensee must therefore have a minimum of 10 members of the www.octathalon.com website that they train. This will be evidenced on the events page on the Octathalon website where the trainer must post the event times and results of the members that did the event.