

## Terms and Conditions – WHO 12 Week Challenge

1. Pacific Magazines Pty Ltd (“**the Promoter**”) sets out below the standard terms and conditions that apply to your participation in the Who 12 Week Challenge (“**the Challenge**”) and the material you submit to the Promoter. Please read this document carefully and, if you agree, sign and return a copy of this letter to the Promoter.

### **Applications**

2. Information on how to apply and Challenge requirements form part of these Terms and Conditions.
3. Applications are open all residents of Australia over the age of 18 except employees and immediate families of the Promoter and its associated companies and agencies. The Promoter is Pacific Magazines Pty Ltd, Media City, 8 Central Avenue, Eveleigh NSW 2015 (ABN 16 097 410 896).
4. Applicants may apply only once by submitting one recent full length colour photograph of themselves (no older than 3 months) and writing their 100-words-or-less answer to the question posed in WHO Magazine and online at the Who 12-Week Challenge Facebook page. Applications should include the applicant’s current height and weight and their target weight. Applicants must supply a clear and suitable full-length “before” picture of themselves that is 5mg resolution and approved by the promoter for publication. The photo should be taken against a white or pale background and the applicant must be wearing fitted exercise-wear: a crop-top or fitted singlet with exercise tights that are no longer than  $\frac{3}{4}$  length. Entry is available by emailing [letters@who.com](mailto:letters@who.com), including ‘WHO Challenge’ in the subject line; or by writing to WHO Challenge, GPO Box 7815, Sydney, NSW 2001.
5. The call out for applications to be considered for the Challenge begins 20/07/2017 at 9am AEST and closes 13/08/2017 at 5pm AEST. Applications received by the Promoter after the closing date will not be considered.
6. You must own the copyright in any photograph you enter (or otherwise be entitled to use the photograph in this way). You must also be the Author and copyright owner of any written answer you submit as part of your entry. You agree and understand that written entries and/or photos may be used by the Promoter and its partners for promotional purposes in any media worldwide without any further reference, payment or other compensation to the entrant and/or owner of the photograph.
7. Any written answers and/or photographs submitted, must not have been previously published in any forum worldwide. The Challengers may be required to sign a statutory declaration regarding their entry’s compliance with these terms and conditions. Without limiting the generality, the Promoter reserves the right to take legal action against anyone found to have breached these terms and conditions. The Promoter reserves the right in its sole discretion to disqualify any individual who the Promoter has reason to believe has breached any of these terms and conditions, or engaged in any unlawful or other improper misconduct calculated to jeopardise the fair and proper conduct of the promotion. The Promoter’s legal rights to recover damages or other compensation are reserved.
8. All entries become the property of the Promoter and cannot be returned.
9. The Promoter will choose ten (10) Eligible Applicants based on the criteria in clause 4 above to participate in the Challenge (“**Challengers**”). Challengers will be selected by the Promoter from 14/08/2017 at 5pm AEST.
10. Challengers will be notified by phone within 2 days of selection. Only successful applicants will be notified.
11. **In consideration of the Promoter providing the personal trainer services for the Challenge, the Challenger must agree to and comply with these Terms and Conditions, including being able to satisfy the Eligibility Criteria below and signing any legal releases before they can be confirmed as a Challenger.**
12. The Promoter reserves the right to disqualify a Challenger in its sole discretion in the event of a Challenger being unable satisfy the requirements of these terms and conditions.

### **About the Who 12 Week Challenge**

13. The Challenge commences on **04/09/2017** and ends on **26/11/2017** Challenge dates are subject to change. The Challengers who complete the 12 week Challenge and their trainers will provide the results of the Challenge to the promoter and results will be published in WHO magazine in January 2017.

14. All six (6) Challengers will work in consultation with personal trainers supplied by a third party. Personal trainer consultation services will be provided to all selected Challengers free of charge for 12 weeks.
15. The Challengers will be required to participate in the Challenge for 12 weeks during which time they will be paired with a qualified personal trainer. The selected Challengers must comply with all reasonable requests of the Promoter, including but not limited to, allowing the Promoter to take any photographs or conduct any interviews at any time to assist in compiling the feature story. Challengers will not be paid any money for taking part in the Challenge, or for having their story or photo published in WHO magazine, online at [www.who.com](http://www.who.com) or any other media worldwide. The purpose of the Challenge is to get fit and lose weight in a healthy way and feature in the magazine after successfully completing the Challenge. The challengers must be available for a photo shoot in Sydney (Time and place to be confirmed by the Promoter).
16. Challengers will be asked to maintain a diary for the entire duration of the Challenge and provide the diary to the Promoter weekly during the challenge.

#### **Further terms of participation**

17. The Challenge is not a race, but is conducted to sensibly document how positive health outcomes can be achieved by taking measured, structured and professional advice from personal trainers. The Promoter makes no claim that specific results will definitely be achieved and that each person trains, takes training advice and loses weight (if any) at different levels and at different times. For permanent weight loss, a positive and healthy lifestyle change is necessary as there are no quick fixes to achieve weight loss and good ongoing health. The Promoter may disqualify any Challenger during the promotion period if, in the view of the Promoter, there is a risk or potential risk to the health of the Challenger in participating in the challenge. However, the Challenger is solely responsible for ensuring that they take adequate precautions and avoid any injuries, including but not limited to seeking independent medical advice, prior to and during the Challenge. The Challenger is required to notify the Promoter if they are concerned that they risk injury at any time during the Challenge.
18. It is highly recommended that Challengers seek independent medical advice prior to, during and after taking part in the Challenge. Challengers must provide adequate evidence of medical advice to the Promoter upon request.
19. Failure to abide by any reasonable direction of the Promoter, or a personal trainer, will immediately disqualify a Challenger from the challenge and this decision will be final.
20. THE PROMOTER MAKES NO GUARANTEE AS TO THE SAFETY OF PARTICIPATING IN THE CHALLENGE. Challengers voluntarily assume ALL RISK associated with their participation in the Challenge and fully indemnify the Promoter in respect of any injury, damage or loss that they may sustain as a result of participating in the Challenge.

**In consideration of the Promoter providing the personal trainer services for the Challenge, you additionally agree to the following:**

#### **The Promoter's right to the Challenge material**

21. You agree to participate and co-operate as required in all editorial and promotional activities relating to the Challenge, including but not limited to, contributing the following material: participating in interviews, being photographed, providing a weekly diary entry to the Promoter and providing a weekly post to the WHO Facebook page (the "**Challenge Materials**").
22. You hereby assign to the Promoter all present and future right, title and interest (including copyright and any other intellectual property rights) subsisting in the Challenge Materials anywhere in the world with effect from creation of the Challenge Materials, free and clear of all encumbrances and third party rights. Without limiting this assignment, you acknowledge and agree that the Promoter, its assigns and licensees have the right to utilise the Challenge Materials (including any part of the Challenge Materials) in any media currently known or hereafter created throughout the world in perpetuity, including (without limitation) any magazine title, any website and social media accounts operated by the Promoter. For clarity, the material you provide in relation to the Challenge may be published in WHO magazine (including digital editions), WHO's website and its associated social media accounts (including the WHO 12 week challenge Facebook page).

23. You hereby grant to the Promoter (and its related body corporates) the right to use your name, voice, signature, likeness, image and photograph in connection with the Challenge Materials.
24. You hereby consent to the Promoter not attributing the Challenge Materials to you. However, if all or a substantial part of the Material is published by the Promoter, the Promoter will take reasonable steps to provide a credit to you. You acknowledge and agree that any failure to provide that credit is not be a breach of this agreement and the Promoter is not liable to you for any failure of a third party not under the Promoter's control to provide or correctly provide this credit;
25. Once the Material is provided to the Promoter it cannot withdraw the Challenge Materials without the Promoter's consent.
26. The Promoter is not obliged to publish the Challenge Materials, or any part of the Challenge Material, within a specified time period or at all.
27. You agree that you will not seek injunctive relief against the Promoter or seek to restrain the Promoter from publishing and distributing the Challenge Material.

### **Warranties**

28. Challengers warrant and agree that they are fully responsible for any Challenge Materials they submit. The Promoter shall not be liable in any way for such content to the full extent permitted by law. Challengers represent and warrant that:
  - a. no part of the Challenge Materials has been previously published and that the material you contribute is your original work
  - b. the Challenge Material is not and will not be defamatory or otherwise contrary to law, and the Promoter's use of the Material will not infringe the rights (including copyright and any other intellectual property rights or rights of confidence) of any third party.
  - c. You will not contribute or otherwise publish material or comments on your personal social media accounts that are offensive, obscene, pornographic, defamatory, threatening, harassing, discriminatory or hateful or that may otherwise bring the Promoter into disrepute or adversely affect the reputation of the Promoter, or that are inconsistent with the healthy lifestyle messaging of the Challenge.
29. Nothing in these Terms and Conditions limit, exclude or modify or purports to limit, exclude or modify the statutory implied guarantees/warranties as provided under the ASIC Act or the Competition and Consumer Act including the statutory consumer guarantees under the Australian Consumer Law or similar laws in the State and Territories of Australia ("Non-Excludable Guarantees"). Except for any liability that cannot by law be excluded, including the Non-Excludable Guarantees, the Promoter (including its respective officers, employees and agents) excludes all liability (including negligence), for any personal injury; or any loss or damage (including loss of opportunity); whether direct, indirect, special or consequential, arising in any way out of the Challenge or the Challengers' participation in the Challenge.
30. **Privacy:** Application details remain the property of the Promoter. Pacific Magazines Pty Ltd and its related entities ("Pacific"), is collecting your personal information for the purpose of conducting and promoting this Competition, including for the purpose of identifying and notifying winners and understanding our audiences. Pacific will otherwise handle your personal information in accordance with Pacific's Privacy Policy which is available on our website at <http://www.sevenwestmedia.com.au/privacy-policies> (and which contains information regarding how you can access your personal information, correct it and/ or make a complaint about our handling of your personal information). By providing your personal information below, you agree to the terms of the Privacy Policy. Without limiting the foregoing, Pacific may disclose the entrant's personal information to its related entities, business partners and external service providers for research and profiling purposes as well as other purposes reasonably related to the entrant's relationship with Pacific. In addition, by entering this competition, you consent to Pacific using your personal information for the purpose of Seven and its related entities sending you information regarding programs, products and services available through them and/ or through their business partners, and to Pacific from time to time sharing your personal information with carefully selected business partners for the purpose of them sending you such information directly. We will always provide you with the ability to opt out of those communications.
31. **Eligible Applicant Checklist**

In order to be considered to participate in the Challenge, you must satisfy the following criteria and agree to the following:

- You must be able to fully participate in The Challenge for 12 weeks, commencing 04/09/2017 and finishing on 26/11/2017.
- You must provide adequate evidence of medical advice/suitability to the Promoter upon request.
- You must be available to meet with a supplied personal trainer minimum twice per week
- During the challenge you will be expected to follow the personal trainer's exercise plan- these exercise plans will require you to complete exercise activities on your own.
- You will be required to create a weekly diary entry which may be published in WHO magazine (including digital editions), WHO's website and its associated social media accounts (including the WHO 12 week challenge Facebook page).
- You may be required to contribute content to the Challenge Facebook page.
- You must be available for the reveal shoot in Sydney and acknowledge that the photos will be published in WHO magazine (including digital editions), WHO's website and its associated social media accounts (including the WHO 12 week challenge Facebook page)

### 32. **Disclaimer: exclusion of liability, release and voluntary assumption of risk**

**Important:** Before beginning any new diet or fitness regime, you should consult with an appropriate health care professional, particularly if you are overweight or have any existing health issues or injuries. You should immediately discontinue and seek medical advice if you feel pain, discomfort or any other sign of illness or injury.

I certify that I have read, carefully considered, and understand all clauses in these Terms and Conditions and I hereby consent to participating in all activities associated with my participation in connection with the "Who Magazine 12 Week Challenge" ("the Challenge"), and my signature below affirms this.

Additionally, I agree:

- to release Pacific Magazines Pty Ltd and its employees, representatives and agents (collectively, the "Releasees") from all liability for any personal injury including death, psychological trauma, loss or damage (including property damage) ("harm") howsoever arising from my participation in the Challenge, including my participating on social media, to the full extent permitted by law;
- indemnify the Releasees from all claims, losses, damages or expenses including legal costs that may be incurred as a result of harm that I suffer during or in conjunction with my participation in the Challenge;

I acknowledge that:

- I am choosing to participate in the Challenge voluntarily and that participation in the Challenge does carry some degree of risk and these risks include but are not limited to the risk that I may suffer harm as a result of: physical training sessions which may or may not include the assistance of a personal trainer.
- this document may be relied on by the Releasees in the event of any court proceeding by me or my heirs, executors and assigns.

All parties acknowledge that nothing in this Disclaimer limits my rights under the Competition and Consumer Act (Commonwealth) 2010. Nor can the Releasees avoid liability for acts of gross negligence and my right to sue for any special liabilities imposed by

Federal or State legislation.

I state that I am legally able to sign this document and I understand that this is legally binding. I have carefully read and checked the contents of this document, particularly the disclaimer and assumption of risk and I am signing it of my own free will.

Signature ..... Date .....

Name .....

Address .....