

## **ELITE SOFTBALL UNIVERSITY**

Welcome to our online Elite Softball University. We provide online resources and instruction in fastpitch softball. By using this website, you are agreeing to comply with and be bound by all of the following terms and conditions of use, which govern Elite Softball University's relationship with you.

The term 'Elite Softball University' 'the Company' 'us' or 'we' refers to Elite Softball University, LLC, whose registered office is located at 280 Schoolhouse Road, Cheshire, CT 06410.

The term 'you' or 'the Subscriber' refers to the viewer or user of our website and its content.

The use of this website is subject to the following terms of use:

- The content of the pages of this website is for the Subscriber's general information and use only. It is subject to change without notice.
- The Subscriber's use of any information or materials on this website is entirely at the Subscriber's own risk, for which the Company shall not be liable. It shall be the Subscriber's own responsibility to ensure that any products, services or information available through this website meet the Subscriber's specific requirements.
- This website contains material which is owned by or licensed to Elite Softball University. This material includes, but is not limited to, the design, layout, look, appearance and graphics. Reproduction is strictly prohibited.
- Unauthorized use of this website may give rise to a claim for damages and subject the user to criminal prosecution.

### **Monthly Subscription Plan**

- The monthly fee is depending on the level of subscription which is paid via credit card on our online website.
- The subscription automatically renews monthly until cancelled by the Subscriber.
- The subscription automatically renews on the same date of each corresponding month or on final date of month if there is no corresponding date (e.g., January 15, 2022 subscription renews on February 15, 2022).
- Subscription fees are non-refundable; except that the Subscriber may cancel a renewed subscription in writing up to three (3) calendar days after renewal date and receive a full refund of the new subscription fees (e.g., if subscription renews on January 15, 2122, the Company must receive the request for cancellation in writing on or before January 18, 2022 to receive a refund).
- Discounts, rebates or other special offers are only valid for the initial term; subscriptions renew at the then-current full subscription rates.

- Elite Softball University may increase subscription fees for a subsequent subscription period at any time and for any reason; provided however, that the Company provides notice at least thirty (30) calendar days prior to the expiration of the current subscription.
- Elite Softball University reserves the right to terminate a subscription without any notice if the Company is unable to renew the subscription based on inaccurate or outdated credit card information.
- Right of Access to the content granted under these Terms is effective only upon payment of the subscription fees

### **Annual Subscription Plan**

- Automatically renews yearly until cancelled by Subscriber
- Automatically renews on the same date of each corresponding year or on final date of month if no corresponding date (January 15, 2010 subscription renews on January 14, 2011)
- Fees charged on renewal date
- Only subscriptions purchased after the effective date of these Terms shall automatically renew as set forth herein
- Subscription fees are non-refundable; except that Subscriber may cancel renewed subscription in writing up to three (3) calendar days after renewal date and receive a full refund of the new subscription fees
- Discounts, rebates or other special offers only valid for initial term; subscriptions renew at the then-current full subscription rates
- Elite Softball University may increase subscription fees for a subsequent subscription period at any time and for any reason, provided, however, that Elite Softball University provides notice at least thirty (30) calendar days prior to the expiration of the subscription
- Elite Softball University may terminate the subscription and these Terms if unable to renew the subscription based on inaccurate or outdated credit card information
- Right of Access to the content granted under these Terms is effective only upon payment of the subscription fees

### **Health Disclaimer**

Elite Softball University may provide sports training, wellness, physical training, fitness, nutrition and other related information, applications, and content. When provided, it is intended only to assist users in their personal training, wellness, physical fitness, nutrition and sports efforts. Elite Softball University is not a medical provider and cannot – and does not – provide medical advice or a medical diagnosis. Nothing contained in the Elite Softball University website or online services should be construed as medical advice or a medical diagnosis. Any information and reports generated by Elite Softball University should not be interpreted as a substitute for physician consultation, evaluation, treatment, or good sense and personal judgment about one’s own physical condition.

Participating in any sport carries an inherent risk of injury, which can be significant, including the potential for catastrophic injury or death. You should consult a medical professional before undertaking any fitness regimen or exercise program, including any exercises or techniques set forth or described on this website. Any text, pictures, and description set forth in this website or in other online or in-person services is for educational purposes only, does not constitute advice that you or any other website user is healthy enough to undertake or perform any technique or exercise. You agree that you will not undertake or perform any exercise or technique described in this website or otherwise by Elite Softball University until and unless you consult with and are cleared by a medical provider.

### **Elite Softball University's Intellectual Property; Limited License to Use Elite Softball University Services.**

#### Ownership

You acknowledge and agree that the Elite Softball University services, and any logos, names, designs, text, graphics, software, content, files, materials, and any other intellectual property rights contained therein, including without limitation any copyrights, patents, trademarks, proprietary or other rights contained therein, related thereto, or otherwise arising therefrom are owned by Elite Softball University or its affiliates, licensors or suppliers. Furthermore, you acknowledge and agree that the source and object code of certain Elite Softball University services (such as our mobile applications and online tools) and the format, directories, queries, algorithms, structure and organization of the same are the intellectual property, proprietary and confidential information of Elite Softball University and/or its affiliates, licensors and suppliers. You expressly agree that you will do nothing inconsistent with Elite Softball University's ownership of the Elite Softball University services, and that you gain no rights, title, or interest in or to any Elite Softball University services or any goodwill associated therewith. In addition, you are not conveyed any right or license by implication, estoppel, or otherwise in or under any patent, trademark, copyright, or other proprietary right of Elite Softball University or any third party.

#### Limited License

For any Elite Softball University Services which enable you to use any software, content, or other materials owned or licensed by the Company only after you become validly authorized by us, we grant you a limited, revocable, non-exclusive, non-sublicensable, non-transferable license solely to access and use the specific Elite Softball University services for which you have contracted, and any related software, content, or other materials for your personal, non-commercial use only.

#### Restrictions

You are prohibited from, and you expressly agree that you will not: (i) circumvent or disable any content protection system, digital rights management technology, user and/or country limitations or any other technology used with any Elite Softball University services; (ii) decompile, reverse engineer, disassemble or otherwise reduce any Elite Softball University Services to a human-readable form; (iii) remove identification, warnings, disclaimers, disclosures, copyright or other proprietary notices in or on the Elite Softball University Services; (iv) access or use any Elite Softball University services in an unlawful or unauthorized manner or in a manner that suggests an association with our content, products, services or brands; (v) use, alter, copy, modify, store,

sell, reproduce, distribute, republish, download, publicly perform, display, post, transmit, create derivative works of, or exploit any Elite Softball University Services or any part thereof; (vi) introduce a virus or other harmful component, or otherwise tamper with, impair or damage any Elite Softball University Services or connected network, or interfere with any person or entity's use or enjoyment of any Elite Softball University Services; (vii) access, monitor, or copy any element of the Elite Softball University Services using a robot, spider, scraper or other automated means or manual process; or (viii) sell, resell, or make commercial use of the Elite Softball University services, products, or information. By accessing or otherwise using any services, content or software of Elite Softball University, you represent and warrant that: (ix) your access to and use of the Elite Softball University Services, or any content or software therein, will comply with any and all requirements in these Terms; (x) you are not located in a country that is subject to a U.S. government embargo, or that has been designated by the U.S. government as a terrorist supporting country, and that you are not listed on any U.S. government list of prohibited or restricted parties; and (xi) you will comply with all applicable local, national, and international laws, rules, regulations and ordinances in connection with your use of any Elite Softball University Services and our websites.

### **Third Party Services and Content.**

Certain Elite Softball University services may integrate, be integrated into, or be provided in connection with third-party websites, services, applications, tools, interfaces, content, and/or materials ("Third-Party Services"). We do not review or control any Third-Party Services. We additionally make no claim or representation regarding, and accept no responsibility for, the quality, content, nature, or reliability of Third-Party Services accessible from our websites, apps, software or any other element of the Elite Softball University Services. There is no implied affiliation, endorsement or adoption by Elite Softball University of these Third-Party Services and we shall not be responsible for any content provided on or through these Third-Party Services.

Certain opinions, advice, statements, or other information, including without limitation, food, nutrition and exercise data, may be made available by third parties through or in connection with the Elite Softball University Services ("Third-Party Content"). This Third-Party Content belongs to the respective authors or providers of the applicable Third-Party Content and these authors and providers are solely responsible for the Third-Party Content they provide in connection with the Elite Softball University Services. ELITE SOFTBALL UNIVERSITY DOES NOT: (I) GUARANTEE THE ACCURACY, COMPLETENESS, OR USEFULNESS OF ANY THIRD-PARTY CONTENT ON ANY ELITE SOFTBALL UNIVERSITY SERVICE; OR (II) ADOPT, ENDORSE OR ACCEPT RESPONSIBILITY FOR THE ACCURACY OR RELIABILITY OF ANY OPINION, ADVICE OR STATEMENT MADE BY A THIRD-PARTY AS PART OF ANY THIRD-PARTY CONTENT. UNDER NO CIRCUMSTANCES WILL ELITE SOFTBALL UNIVERSITY BE RESPONSIBLE FOR ANY LOSS OR DAMAGE RESULTING FROM YOUR RELIANCE ON THIRD-PARTY CONTENT POSTED ON THE ELITE SOFTBALL UNIVERSITY SERVICES OR TRANSMITTED TO OR BY ANY THIRD-PARTY IN CONNECTION WITH THE ELITE SOFTBALL UNIVERSITY SERVICES.

### Disclaimer of Warranties

YOU ACKNOWLEDGE AND AGREE THE ELITE SOFTBALL UNIVERSITY, INCLUDING WITHOUT LIMITATION, ANY PRODUCTS, GOODS, SERVICES, WEBSITES, APPLICATIONS, HEALTH, FITNESS, NUTRITION AND WELLNESS CONTENT AND ADVICE, OR ANY OTHER INFORMATION PROVIDED THEREIN ARE PROVIDED “AS IS” AND “AS AVAILABLE”, WITH ALL FAULTS, ERRORS AND OMISSIONS, AND WITHOUT ANY PERFORMANCE ASSURANCES OR GUARANTEES OF ANY KIND. THE COMPANY EXPRESSLY DISCLAIMS ANY AND ALL WARRANTIES, CONDITIONS, AND REPRESENTATIONS, EXPRESS OR IMPLIED, REGARDING THE ELITE SOFTBALL UNIVERSITY SERVICES, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, SATISFACTORY QUALITY, ACCESSIBILITY, AND WARRANTIES ARISING FROM COURSE OF DEALING, USAGE OR TRADE PRACTICE. THE COMPANY MAKES NO GUARANTEE OR WARRANTY THAT THE ELITE SOFTBALL UNIVERSITY SERVICE WILL MEET YOUR REQUIREMENTS OR THAT THEY WILL BE UNINTERRUPTED OR ERROR-FREE. WE FURTHER MAKE NO GUARANTEE OR WARRANTY AS TO THE PARTICULAR HEALTH AND WELLNESS GOALS, RESULTS, BENEFITS OR OUTCOMES THAT MAY BE ACHIEVED OR OBTAINED THROUGH USE OF ANY ELITE SOFTBALL UNIVERSITY SERVICES. YOU AGREE TO USE THE ELITE SOFTBALL UNIVERSITY SERVICES AT YOUR SOLE RISK.

YOU WILL NOT HOLD ELITE SOFTBALL UNIVERSITY OR ITS THIRD-PARTY SERVICE PROVIDERS, LICENSORS AND SUPPLIERS, AS APPLICABLE, RESPONSIBLE FOR ANY LOSS OR DAMAGE THAT RESULTS FROM YOUR ACCESS TO OR USE OF THE ELITE SOFTBALL UNIVERSITY SERVICES, INCLUDING WITHOUT LIMITATION ANY LOSS OR DAMAGE TO ANY OF YOUR COMPUTERS OR DATA, AS THE ELITE SOFTBALL UNIVERSITY SERVICES MAY CONTAIN BUGS, ERRORS, PROBLEMS OR OTHER LIMITATIONS.

YOU ACKNOWLEDGE THAT WE DO NOT CONTROL ANY ADVERTISEMENTS, PRODUCT DESCRIPTIONS, PRODUCTS, OR CONTENT OFFERED BY THIRD PARTIES ON OR THROUGH OUR WEBSITES, INCLUDING WITHOUT LIMITATION, INFORMATION OR PRODUCTS PROVIDED BY LICENSE TO US FROM THIRD PARTIES. CERTAIN WARRANTIES WITH RESPECT TO PARTICULAR PRODUCTS/SERVICES ACCESSED FOR SALE THROUGH OUR WEBSITES MAY BE AVAILABLE THROUGH MANUFACTURERS' WARRANTIES, THOUGH NOT THROUGH ELITE SOFTBALL UNIVERSITY. PLEASE READ THE WARRANTIES INCLUDED IN THE DOCUMENTATION PROVIDED WITH THOSE PRODUCTS/SERVICES FOR FURTHER DETAILS. WE ASSUME NO RESPONSIBILITY FOR AND MAKE NO WARRANTY OR REPRESENTATION AS TO THE ACCURACY, CURRENCY, COMPLETENESS, RELIABILITY, OR USEFULNESS OF THIRD-PARTY CONTENT, THIRD-PARTY SERVICES, OR THIRD-PARTY PRODUCTS (INCLUDING PRODUCT DESCRIPTIONS) DISTRIBUTED OR MADE AVAILABLE BY THIRD PARTIES THROUGH OUR WEBSITES.

### **Mobile Networks; Texting.**

When you access any Elite Softball University through a mobile network, such as a mobile application, or you sign up for our text message programs, your network or roaming provider's messaging, data and other rates and fees may apply. Not all Elite Softball University applications may work with your network provider or device.

When you sign up to receive text messages from us, you acknowledge and agree you will receive such text messages using an autodialer to the number you provide, and that your consent for us to send you text messages is not a condition of purchasing any Elite Softball University. Not all carriers may be included within our text messaging programs. You are free to opt-out of receiving text messages from us at any time.

### **Indemnification; Limitation of Liability**

#### **Indemnification**

You agree to indemnify and hold Elite Softball University, its parents, subsidiaries, affiliates, shareholders, officers, directors, employees, agents, and suppliers harmless from and against any claim, action, demand, loss, suit, or damages (including attorneys' fees) made or incurred by any third party arising out of or relating to your improper use of any Elite Softball University, your violation of these Terms, or your violation of any rights of a third party.

#### **Limitation of Liability**

TO THE MAXIMUM EXTENT PERMITTED BY LAW, NEITHER ELITE SOFTBALL UNIVERSITY NOR ANY OF ITS SUBSIDIARIES, AFFILIATES OR PARENT COMPANIES, OR ANY OF THEIR SERVICE PROVIDERS, LICENSORS OR SUPPLIERS SHALL NOT BE LIABLE FOR SPECIAL, COMPENSATORY, INDIRECT, INCIDENTAL, CONSEQUENTIAL, OR EXEMPLARY DAMAGES, LOST PROFITS, LOST DATA OR CONFIDENTIAL OR OTHER INFORMATION, LOSS OF PRIVACY, COSTS OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES, FAILURE TO MEET ANY DUTY INCLUDING WITHOUT LIMITATION OF GOOD FAITH OR OF REASONABLE CARE, NEGLIGENCE, OR OTHERWISE, REGARDLESS OF THE FORESEEABILITY AND/OR IF WE WERE ADVISED OF SUCH DAMAGES OR OF ANY ADVICE OR NOTICE GIVEN TO ELITE SOFTBALL UNIVERSITY OR ITS SERVICE PROVIDERS, LICENSORS AND SUPPLIERS ARISING OUT OF OR IN CONNECTION WITH YOUR USE OF ANY ELITE SOFTBALL UNIVERSITY SERVICES. THIS LIMITATION SHALL APPLY REGARDLESS OF WHETHER THE DAMAGES ARISE OUT OF BREACH OF CONTRACT, NEGLIGENCE, TORT, OR ANY OTHER LEGAL THEORY OR FORM OF ACTION. ADDITIONALLY, THE MAXIMUM LIABILITY OF ELITE SOFTBALL UNIVERSITY AND ITS SERVICE PROVIDERS, LICENSORS AND SUPPLIERS TO YOU UNDER ALL CIRCUMSTANCES WILL BE LIMITED TO THE AMOUNT PAID TO THE COMPANY BY YOU IN THE NINETY (90) DAYS PRIOR TO YOUR NOTICE TO THE COMPANY OF ANY CLAIM. YOU AGREE THAT THIS LIMITATION OF LIABILITY REPRESENTS A REASONABLE ALLOCATION OF RISK AND IS A FUNDAMENTAL ELEMENT OF THE BASIS OF THE BARGAIN BETWEEN ELITE SOFTBALL UNIVERSITY AND YOU. THE ELITE SOFTBALL UNIVERSITY SERVICES WOULD NOT BE PROVIDED WITHOUT

SUCH LIMITATIONS. ELITE SOFTBALL UNIVERSITY WILL NOT BE LIABLE FOR FAILURE TO PERFORM ANY OBLIGATION UNDER THESE TERMS IF SUCH FAILURE IS CAUSED BY THE OCCURRENCE OF ANY UNFORESEEN CIRCUMSTANCE BEYOND ITS REASONABLE CONTROL, INCLUDING, WITHOUT LIMITATION, INTERNET OUTAGES, COMMUNICATIONS OUTAGES, FIRE, FLOOD, NATURAL DISASTER, CIVIL UNREST OR WAR.