

## Privacy Policy

Please carefully read the following Terms of Use (collectively with Fitness Culture Programming's Privacy Policy, the "Terms of Use") fully before using Fitness Culture Programming's mobile applications (the "Applications"), [www.app.fitnessculture.com](http://www.app.fitnessculture.com) (the "Site"), and the services, features, content, goods or applications offered by Fitness Culture Programming, LLC. ("Fitness Culture Programming", "Fitness Culture Programming with", "we", "us" or "our") (together with the Applications and the Site, the "Services"). These Terms of Use set forth the legally binding terms and conditions for your use of the Applications, Site and the Services. 1. Acceptance By using the Services in any manner, including downloading the Applications or visiting or browsing the Site, you agree to these Terms of Use and all other operating rules, policies and procedures that may be published from time to time on the Site or the Applications, each of which is incorporated herein by reference and which may be updated from time to time without notice to you. These Terms of Use apply to all users of the Services, including, without limitation, users who are contributors of content, information, and other materials or services, registered or otherwise.

Services may be subject to additional terms and conditions specified by us from time to time; your use of such Services is subject to those additional terms and conditions, which are incorporated into these Terms of Use by this reference.

***No mobile information will be shared with third parties/affiliates for marketing/promotional purposes. All the above categories exclude text messaging originator opt-in data and consent; this information will not be shared with any third parties***

ARBITRATION NOTICE AND CLASS ACTION WAIVER: EXCEPT FOR CERTAIN TYPES OF DISPUTES DESCRIBED IN THE ARBITRATION SECTION BELOW, YOU AGREE THAT DISPUTES BETWEEN YOU AND US WILL BE RESOLVED BY BINDING, INDIVIDUAL ARBITRATION AND YOU WAIVE YOUR RIGHT TO PARTICIPATE IN A CLASS ACTION LAWSUIT OR CLASS-WIDE ARBITRATION. ARBITRATION. YOU AGREE THAT ALL DISPUTES BETWEEN YOU AND US (WHETHER OR NOT SUCH DISPUTE INVOLVES A THIRD PARTY) WITH REGARD TO YOUR RELATIONSHIP WITH US, INCLUDING DISPUTES RELATED TO THESE TERMS OF USE, YOUR USE OF THE SERVICES, AND/OR RIGHTS OF PRIVACY AND/OR PUBLICITY, WILL BE RESOLVED BY BINDING, INDIVIDUAL ARBITRATION UNDER THE AMERICAN ARBITRATION ASSOCIATION'S RULES FOR ARBITRATION OF CONSUMER-RELATED DISPUTES AND YOU AND WE HEREBY EXPRESSLY WAIVE TRIAL BY JURY. DISCOVERY AND RIGHTS TO APPEAL IN ARBITRATION ARE GENERALLY MORE LIMITED THAN IN A LAWSUIT, AND OTHER RIGHTS THAT YOU AND WE WOULD HAVE IN COURT MAY NOT BE AVAILABLE IN ARBITRATION. As an alternative, you may bring your claim in your local "small claims" court, if permitted by that small claims court's rules and if within such court's jurisdiction, unless such action is transferred, removed or appealed to a different court. You may bring claims only on your own behalf. Neither you nor we will participate in a class action or class-wide arbitration for any claims covered by this agreement to arbitrate. YOU ARE GIVING UP YOUR RIGHT TO

PARTICIPATE AS A CLASS REPRESENTATIVE OR CLASS MEMBER ON ANY CLASS CLAIM YOU MAY HAVE AGAINST US INCLUDING ANY RIGHT TO CLASS ARBITRATION OR ANY CONSOLIDATION OF INDIVIDUAL ARBITRATIONS. You also agree not to participate in claims brought in a private attorney general or representative capacity, or consolidated claims involving another person's account, if we are a party to the proceeding. This dispute resolution provision will be governed by the Federal Arbitration Act and not by any state law concerning arbitration. In the event the American Arbitration Association is unwilling or unable to set a hearing date within one hundred and sixty (160) days of filing the case, then either we or you can elect to have the arbitration administered instead by the Judicial Arbitration and Mediation Services. Judgment on the award rendered by the arbitrator may be entered in any court having competent jurisdiction. Any provision of applicable law notwithstanding, the arbitrator will not have authority to award damages, remedies or awards that conflict with these Terms of Use. If the prohibition against class actions and other claims brought on behalf of third parties contained above is found to be unenforceable, then all of the preceding language in this Arbitration section will be null and void. This arbitration agreement will survive the termination of your relationship with us.

**2. Suitability** You represent and warrant that you are at least 14 years of age. If you are under age 14, you may not, under any circumstances or for any reason, use the Services. We may, in our sole discretion, refuse to offer the Services to any person or entity and change its eligibility criteria at any time. These Terms of Use are void where prohibited by law. You are solely responsible for ensuring that these Terms of Use are in compliance with all laws, rules and regulations applicable to you and the right to access the Services is revoked where these Terms of Use or use of the Services is prohibited or to the extent offering, sale or provision of the Services conflicts with any applicable law, rule or regulation. Further, the Services are offered only for your use, and not for the use or benefit of any third party.

**NOTICE TO PARENTS AND GUARDIANS:** Users are responsible for monitoring and supervising their child's use of the Services. If your child is using the Services and is under age 14, please contact us immediately so that we can disable his or her access. If you have questions about the Services, please contact us at [www.fitnessculture.com](http://www.fitnessculture.com).

**3. Registration** To sign up for the Services, you must register for an account on the Services (an "Account"). You must provide accurate and complete information and keep your Account information updated. Failure to do so shall constitute a breach of these Terms of Use. A breach of these Terms of Use may result in immediate termination of your account. You shall not: (i) select or use as a username a name of another person with the intent to impersonate that person; (ii) use as a username a name subject to any rights of a person other than you without appropriate authorization; or (iii) use, as a username, a name that is otherwise offensive, vulgar or obscene. You are solely responsible for the activity that occurs on your Account, and for keeping your Account password secure. You may never use another person's user account or registration information for the Services without permission. You must notify us immediately of any change in your eligibility to use the Services (including any changes to or revocation of any licenses from state authorities), breach of security or unauthorized use of your Account. You should never publish, distribute or post login information for your Account. Fitness Culture Programming reserves the right to refuse registration of, or cancel an Account in Fitness Culture Programming's discretion. You shall have the ability to delete your Account through a request made to us. By accessing the Services, you permit us to access certain information from your profile on Facebook or any other such third

party services for use by the Services. By using the Services, you are authorizing us to collect, store, retain, and use indefinitely, in accordance with our Privacy Policy, any and all information that you permitted Facebook or any other such third party services to provide to us.<sup>4</sup> Use of the Service The Services provide users with guidance and information on how to improve their fitness, health and nutrition, but THE SERVICES ARE NOT A MEDICAL ORGANIZATION OR MEDICAL DOCTORS. YOU SHOULD NOT RELY ON THIS GUIDANCE AND INFORMATION AS PROFESSIONAL MEDICAL ADVICE, DIAGNOSIS, OR TREATMENT. BEFORE BEGINNING THE SERVICES, YOU SHOULD CONSULT A PHYSICIAN. Our recommended workout plans and exercises, even if they are tailored to individual users, should not be misconstrued as medical advice, diagnoses or treatment. IF YOU HAVE ANY CONCERNS OR QUESTIONS ABOUT YOUR HEALTH, YOU SHOULD ALWAYS CONSULT WITH A PHYSICIAN OR OTHER HEALTHCARE PROFESSIONAL. THE USE OF ANY INFORMATION OR PROGRAMS PROVIDED ON THE SERVICES IS SOLELY AT YOUR OWN RISK. The Services are intended for use only by individuals healthy enough to perform strenuous exercise. In becoming a user of the Services, you affirm that a physician has specifically approved your use of the Services, OR that all of the following statements are true: no physician has ever informed you that you have a heart condition or that you should only do physical activities recommended by a physician; you have never felt chest pain when engaging in physical activity; you have not experienced chest pain when not engaged in physical activity at any time within the past month; you have never lost your balance because of dizziness and you have never lost consciousness; you do not have a bone or joint problem that could be made worse by a change in your physical activity; your physician is not currently prescribing drugs for your blood pressure or heart condition; you do not have a history of high blood pressure, and no one in your immediate family has a history of high blood pressure or heart problems; you do not have a condition of high-cholesterol, diabetes, obesity or arthritis; and you do not know of any other reason you should not exercise. If applicable, you further affirm that (A) you are not pregnant, breastfeeding or lactating, or (B) your physician has specifically approved your use of the Services. You should discontinue exercise in cases where it causes pain or severe discomfort, and should consult a medical expert prior to returning to exercise in such cases. We reserve the right to deny you access to the Services for any reason or no reason. You should be aware that there are inherent physical and mental health risks to exercise, including risk of injury or illness. By accessing the Services, you acknowledge and agree that your performance of any and all exercises or activities recommended by the Services is wholly at your own risk. Neither Fitness Culture Programming, Steve Cook, Jacob Hutton, nor any of its trainers will be liable for any physical or mental injury or illness that may result, whether directly or indirectly, from any of our recommended workout plans or exercises. While we may provide guidelines such as written descriptions, pictures, or videos describing how to perform specific exercises or activities, you assume sole responsibility for performing those exercises or activities with proper form, as risk of injury or illness increases with improper form. We encourage you to seek multiple sources of information regarding how to perform each exercise correctly and to consider consulting with a qualified coach, instructor, personal trainer, or physical therapist, especially if you are new to any of the forms of training or activity you seek to perform.<sup>5</sup> Content Definition: For purposes of these Terms of Use, the term "Content" includes, without limitation, information, data, text, photographs, videos, audio clips, written posts and comments, software, scripts, graphics, and

interactive features generated, provided, or otherwise made accessible on or through the Services. For the purposes of this Agreement, "Content" also includes all User Content (as defined below). User Content: All Content added, created, uploaded, submitted, distributed, or posted to the Services by users (collectively "User Content"), whether publicly posted or privately transmitted, is the sole responsibility of the person who originated such User Content. You represent that all User Content provided by you is accurate, complete, up-to-date, and in compliance with all applicable laws, rules and regulations. You acknowledge that all Content, including User Content, accessed by you using the Services is at your own risk and you will be solely responsible for any damage or loss to you or any other party resulting therefrom. We do not guarantee that any Content you access on or through the Services is or will continue to be accurate. Notices and Restrictions: The Services may contain Content specifically provided by us, our partners or our users and such Content is protected by copyrights, trademarks, service marks, patents, trade secrets or other proprietary rights and laws. You shall abide by and maintain all copyright notices, information, and restrictions contained in any Content accessed through the Services. Use License: Subject to these Terms of Use, we grant each user of the Services a worldwide, non-exclusive, non-sub-licensable and non-transferable personal license to use (i.e., to download and display locally) Content solely for purposes of using the Services. Use, reproduction, modification, distribution or storage of any Content for other than purposes of using the Services is expressly prohibited without prior written permission from us. You shall not sell, license, rent, or otherwise use or exploit any Content for commercial use or in any way that violates any third party right. As between you and Fitness Culture Programming, Fitness Culture Programming shall own all title, ownership rights, and intellectual property rights in and to the Services, and any copies or portions thereof. License Grant: By submitting User Content through the Services, you hereby do and shall grant us a worldwide, non-exclusive, perpetual, royalty-free, fully paid, sub-licensable and transferable license to use, edit, modify, truncate, aggregate, reproduce, distribute, prepare derivative works of, display, perform, and otherwise fully exploit the User Content in connection with the Applications, the Site, the Services and our (and our successors' and assigns') businesses, including without limitation for promoting and redistributing part or all of the Applications, the Site or the Services (and derivative works thereof) in any media formats and through any media channels (including, without limitation, third party websites and feeds), and including after your termination of your Account or the Services. You also hereby do and shall grant each user of the Applications, Site and/or the Services who has access to your User Content a non-exclusive, perpetual license to use, edit, modify, reproduce, distribute, prepare derivative works of, display and perform such User Content, including after your termination of your Account or the Services. For clarity, the foregoing license grants to us and our users does not affect your other ownership or license rights in your User Content, including the right to grant additional licenses to your User Content, unless otherwise agreed in writing. You represent and warrant that you have all rights to grant such licenses to us without infringement or violation of any third party rights, including without limitation, any privacy rights, publicity rights, copyrights, trademarks, contract rights, or any other intellectual property or proprietary rights. Availability of Content: We do not guarantee that any Content will be made available on the Applications or the Site or through the Services. We reserve the right to, but do not have any obligation to, (i) remove, edit or modify any Content in our sole discretion, at any time, without notice to you and for any reason (including, but not

limited to, upon receipt of claims or allegations from third parties or authorities relating to such Content or if we are concerned that you may have violated these Terms of Use), or for no reason at all and (ii) to remove or block any Content from the Services.

**6. Rules of Conduct** As a condition of use, you promise not to use the Services for any purpose that is prohibited by these Terms of Use. You shall not (and shall not permit any third party to) either (a) take any action or (b) upload, download, post, submit or otherwise distribute or facilitate distribution of any Content on or through the Service, including without limitation any User Content, that:

- infringes any patent, trademark, trade secret, copyright, right of publicity or other right of any other person or entity or violates any law or contractual duty (see our DMCA Copyright Policy, located at the end of these Terms of Use);
- you know is false, misleading, untruthful or inaccurate;
- is unlawful, threatening, abusive, harassing, defamatory, libelous, deceptive, fraudulent, invasive of another's privacy, otherwise harms a third party, tortious, obscene, vulgar, pornographic, offensive, profane, contains or depicts nudity, contains or depicts sexual activity, or is otherwise inappropriate as determined by us in our sole discretion;
- constitutes unauthorized or unsolicited advertising, junk or bulk e-mail ("spamming");
- contains software viruses or any other computer codes, files, or programs that are designed or intended to disrupt, damage, limit or interfere with the proper function of any software, hardware, or telecommunications equipment or to damage or obtain unauthorized access to any system, data, password or other information of ours or of any third party;
- impersonates any person or entity, including any of our employees or representatives;
- or includes anyone's identification documents or sensitive financial information.

You shall not:

- (i) take any action that imposes or may impose (as determined by us in our sole discretion) an unreasonable or disproportionately large load on our (or our third party providers') infrastructure;
- (ii) interfere or attempt to interfere with the proper working of the Services or any activities conducted on the Services;
- (iii) bypass, circumvent or attempt to bypass or circumvent any measures we may use to prevent or restrict access to the Services (or other accounts, computer systems or networks connected to the Services);
- (iv) run any form of auto-responder or "spam" on the Services;
- (v) use manual or automated software, devices, or other processes to "crawl" or "spider" any page of the Applications or the Site;
- (vi) harvest or scrape any Content from the Services; or
- (vii) otherwise take any action in violation of our guidelines and policies.

You shall not (directly or indirectly):

- (i) decipher, decompile, disassemble, reverse engineer or otherwise attempt to derive any source code or underlying ideas or algorithms of any part of the Services (including without limitation any application), except to the limited extent applicable laws specifically prohibit such restriction;
- (ii) modify, translate, or otherwise create derivative works of any part of the Services;
- (iii) copy, rent, lease, distribute, use the Services for timesharing or service bureau purposes or otherwise transfer any of the rights that you receive hereunder; or
- (iv) remove or obscure any proprietary notices on the Services.

You shall abide by all applicable local, state, national and international laws and regulations. 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 these 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 us, our users and the public.

**7. Location Based Services** Where the Services collect location-based information, the Services may do it on an anonymous basis for the improvement of our Services. You hereby consent to the

Services' use of anonymous location based services information collected from users. Where the location-based information is personally identifiable the Services will give you options to manage your disclosure of this information within the Services. Depending on the functionalities available on your mobile device, you may benefit from advanced options to manage the location-based information.

8. Third Party Services The Services may permit you to link to other websites, services or resources on the Internet, and other websites, services or resources may contain links to the Services. The Services may also permit you to connect to third party hardware and equipment. When you access third party resources, you do so at your own risk. These other resources are not under our control, and you acknowledge that we are not responsible or liable for the content, functions, accuracy, legality, appropriateness or any other aspect of such websites, resources, hardware or equipment. The inclusion of any such link or connection does not imply our endorsement or any association between us and their providers. You further acknowledge and agree that we shall not be responsible or liable, directly or indirectly, for any damage or loss caused or alleged to be caused by or in connection with the use of or reliance on any such content, goods or services available on or through any such website, resource or hardware or equipment.

9. Apple Device and Application Terms. As you are accessing the Services via an Application on a device provided by Apple, Inc. ("Apple") or an Application obtained through the Apple App Store, the following shall apply: Both you and Fitness Culture Programming acknowledge that these Terms of Use are concluded between you and Fitness Culture Programming only, and not with Apple, and that Apple is not responsible for the Application or the Content; The Application is licensed to you on a limited, non-exclusive, non-transferrable, non-sub-licensable basis, solely to be used in connection with the Services for your private, personal, non-commercial use, subject to all the terms and conditions of these Terms of Use as they are applicable to the Services; You will only use the Application in connection with an Apple device that you own or control; You acknowledge and agree that Apple has no obligation whatsoever to furnish any maintenance and support services with respect to the Application; In the event of any failure of the Application to conform to any applicable warranty, including those implied by law, you may notify Apple of such failure; upon notification, Apple's sole warranty obligation to you will be to refund to you the purchase price, if any, of the Application; You acknowledge and agree that Fitness Culture Programming, and not Apple, is responsible for addressing any claims you or any third party may have in relation to the Application; You acknowledge and agree that, in the event of any third party claim that the Application or your possession and use of the Application infringes that third party's intellectual property rights, Fitness Culture Programming, and not Apple, will be responsible for the investigation, defense, settlement and discharge of any such infringement claim; You represent and warrant that you are not located in a country 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; Both you and Fitness Culture Programming acknowledge and agree that, in your use of the Application, you will comply with any applicable third party terms of agreement which may affect or be affected by such use; and Both you and Fitness Culture Programming acknowledge and agree that Apple and Apple's subsidiaries are third party beneficiaries of these Terms of Use, and that upon your acceptance of these Terms of Use, Apple will have the right (and will be deemed to have accepted the right) to enforce these Terms of Use against you as the third party

beneficiary hereof.10. In-App Purchases Through the Services, you may purchase ("In App Purchase") certain goods or additional features or Applications designed to enhance the performance of the Services ("Goods"). When you purchase Goods, you are doing so through Apple iTunes service and you are agreeing to Apple's iTunes' Terms and Conditions.11. Payments and Billing Paid Services: Certain of our Services may be subject to payments now or in the future (the "Paid Services"). Please note that any payment terms presented to you in the process of using or signing up for a Paid Service are deemed part of this Agreement. Billing: We use a third-party payment processor (the "Payment Processor") to bill you through a payment account (your "Billing Account") for use of the Paid Services. The processing of payments will be subject to the terms, conditions and privacy policies of the Payment Processor in addition to this Agreement. We are not responsible for error by the Payment Processor. By choosing to use Paid Services, you agree to pay us, through the Payment Processor, all charges at the prices then in effect for any use of such Paid Services in accordance with the applicable payment terms and you authorize us, through the Payment Processor, to charge your chosen payment provider (your "Payment Method"). You agree to make payment using that selected Payment Method. We reserve the right to correct any errors or mistakes that it makes even if it has already requested or received payment. Payment Method: The terms of your payment will be based on your Payment Method and may be determined by agreements between you and the financial institution, credit card issuer or other provider of your chosen Payment Method. If we, through the Payment Processor, do not receive payment from you, you agree to pay all amounts due on your Billing Account upon demand. Recurring Billing: Some of the Paid Services may consist of an initial period, for which there is a one-time charge, followed by recurring period charges as agreed to by you. By choosing a recurring payment plan, you acknowledge that such Services have an initial and recurring payment feature and you accept responsibility for all recurring charges prior to cancellation. WE MAY SUBMIT PERIODIC CHARGES (E.G., MONTHLY) WITHOUT FURTHER AUTHORIZATION FROM YOU, UNTIL YOU PROVIDE PRIOR NOTICE (RECEIPT OF WHICH IS CONFIRMED BY US) THAT YOU HAVE TERMINATED THIS AUTHORIZATION OR WISH TO CHANGE YOUR PAYMENT METHOD. SUCH NOTICE WILL NOT AFFECT CHARGES SUBMITTED BEFORE WE REASONABLY COULD ACT. TO TERMINATE YOUR AUTHORIZATION OR CHANGE YOUR PAYMENT METHOD, GO TO [WWW.APP.FITNESSCULTURE.COM](http://WWW.APP.FITNESSCULTURE.COM).Current Information Required. YOU MUST PROVIDE CURRENT, COMPLETE AND ACCURATE INFORMATION FOR YOUR BILLING ACCOUNT. YOU MUST PROMPTLY UPDATE ALL INFORMATION TO KEEP YOUR BILLING ACCOUNT CURRENT, COMPLETE AND ACCURATE (SUCH AS A CHANGE IN BILLING ADDRESS, CREDIT CARD NUMBER, OR CREDIT CARD EXPIRATION DATE), AND YOU MUST PROMPTLY NOTIFY US OR OUR PAYMENT PROCESSOR IF YOUR PAYMENT METHOD IS CANCELED (E.G., FOR LOSS OR THEFT) OR IF YOU BECOME AWARE OF A POTENTIAL BREACH OF SECURITY, SUCH AS THE UNAUTHORIZED DISCLOSURE OR USE OF YOUR USER NAME OR PASSWORD. CHANGES TO SUCH INFORMATION CAN BE MADE AT [WWW.APP.FITNESSCULTURE.COM](http://WWW.APP.FITNESSCULTURE.COM). IF YOU FAIL TO PROVIDE ANY OF THE FOREGOING INFORMATION, YOU AGREE THAT WE MAY CONTINUE CHARGING YOU FOR ANY USE OF PAID SERVICES UNDER YOUR BILLING ACCOUNT UNLESS YOU HAVE TERMINATED YOUR PAID SERVICES AS SET FORTH ABOVE. Change in Amount Authorized: If the amount to be charged to your Billing Account varies from the amount you

preauthorized (other than due to the imposition or change in the amount of state sales taxes), you have the right to receive, and we shall provide, notice of the amount to be charged and the date of the charge before the scheduled date of the transaction. Any agreement you have with your payment provider will govern your use of your Payment Method. You agree that we may accumulate charges incurred and submit them as one or more aggregate charges during or at the end of each billing cycle. Reaffirmation of Authorization: Your non-termination or continued use of a Paid Service reaffirms that we are authorized to charge your Payment Method for that Paid Service. We may submit those charges for payment and you will be responsible for such charges. This does not waive our right to seek payment directly from you. Your charges may be payable in advance, in arrears, per usage, or as otherwise described when you initially selected to use the Paid Service. Free Trials and Other Promotions: Any free trial or other promotion that provides access to a Paid Service must be used within the specified time of the trial. You must stop using a Paid Service before the end of the trial period in order to avoid being charged for that Paid Service. If you cancel prior to the end of the trial period and are inadvertently charged for a Paid Service, please contact us our customer service at [www.app.fitnessculture.com](http://www.app.fitnessculture.com). 12. Termination We may terminate your access to all or any part of the Services at any time, with or without cause, with or without notice, effective immediately, which may result in the forfeiture and destruction of all information associated with your membership. Upon termination, you agree that you shall no longer access (or attempt to access) the Services. If you wish to terminate your Account, you may do so by contacting us at [www.app.fitnessculture.com](http://www.app.fitnessculture.com) Any fees paid hereunder are non-refundable. All provisions of these Terms of Use, which by their nature should survive termination shall survive termination, including, without limitation, licenses of User Content, ownership provisions, warranty disclaimers, indemnity and limitations of liability. 13. Warranty Disclaimer We have no special relationship with or fiduciary duty to you. You release us from all liability for you having acquired or not acquired Content through the Services. We make no representations concerning any Content contained in or accessed through the Services, and we will not be responsible or liable for the accuracy, copyright compliance, or legality of material or Content contained in or accessed through the Services. THE SERVICES AND CONTENT ARE PROVIDED "AS IS", "AS AVAILABLE" AND WITHOUT WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF TITLE, NON-INFRINGEMENT, MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, AND ANY WARRANTIES IMPLIED BY ANY COURSE OF PERFORMANCE OR USAGE OF TRADE, ALL OF WHICH ARE EXPRESSLY DISCLAIMED. WE, AND OUR DIRECTORS, EMPLOYEES, AGENTS, SUPPLIERS, PARTNERS AND CONTENT PROVIDERS DO NOT WARRANT THAT: (I) THE SERVICES WILL BE SECURE OR AVAILABLE AT ANY PARTICULAR TIME OR LOCATION; (II) ANY DEFECTS OR ERRORS WILL BE CORRECTED; (III) ANY CONTENT OR SOFTWARE AVAILABLE AT OR THROUGH THE SERVICES IS FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS; OR (IV) THE RESULTS OF USING THE SERVICES WILL MEET YOUR REQUIREMENTS. YOUR USE OF THE SERVICES IS SOLELY AT YOUR OWN RISK. THE FOREGOING DISCLAIMER SHALL NOT APPLY TO THE EXTENT PROHIBITED BY APPLICABLE LAW. 14. Indemnification You shall defend, indemnify, and hold harmless us, our affiliates and each of our and their respective employees including without limitation our trainers, Steve Cook, Jacob Hutton, contractors, directors, suppliers and representatives from all



liabilities, claims, and expenses, including reasonable attorneys' fees, that arise from or relate to your use or misuse of, or access to, the Services, Content, or otherwise from your User Content, violation of these Terms of Use, or infringement by you, or any third party using your Account or identity in the Services, of any intellectual property or other right of any person or entity. We reserve the right to assume the exclusive defense and control of any matter otherwise subject to indemnification by you, in which event you will assist and cooperate with us in asserting any available defenses.

15. Limitation of Liability IN NO EVENT SHALL WE, STEVE COOK, JACOB HUTTON, NOR OUR MEMBERS, MANAGERS, OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, PARTNERS, SUPPLIERS, VENDORS OR CONTENT PROVIDERS, BE LIABLE UNDER CONTRACT, TORT, STRICT LIABILITY, NEGLIGENCE OR ANY OTHER LEGAL OR EQUITABLE THEORY WITH RESPECT TO THE SERVICES (1) FOR ANY LOST PROFITS, DATA LOSS, COST OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES, OR SPECIAL, INDIRECT, INCIDENTAL, PUNITIVE, COMPENSATORY OR CONSEQUENTIAL DAMAGES OF ANY KIND WHATSOEVER, EVEN IF FORESEEABLE, SUBSTITUTE GOODS OR SERVICES (HOWEVER ARISING), (2) FOR ANY BUGS, VIRUSES, TROJAN HORSES, OR THE LIKE (REGARDLESS OF THE SOURCE OF ORIGIN), OR (3) FOR ANY DIRECT DAMAGES IN EXCESS OF (IN THE AGGREGATE) \$100.00 (U.S.). THE FOREGOING LIMITATIONS SHALL NOT APPLY TO THE EXTENT PROHIBITED BY APPLICABLE LAW.

16. Governing Law and Jurisdiction These Terms of Use shall be governed by and construed in accordance with the laws of the State of Utah, including its conflicts of law rules, and the United States of America. You agree that any dispute arising from or relating to the subject matter of these Terms of Use shall be governed by the exclusive jurisdiction and venue of the state and Federal courts of Salt Lake City, Utah.

17. Modification We reserve the right, in our sole discretion, to modify or replace any of these Terms of Use, or change, suspend, or discontinue the Services (including without limitation, the availability of any feature, database, or content) at any time. We may also impose limits on certain features and services or restrict your access to parts or all of the Services without notice or liability. It is your responsibility to check these Terms of Use periodically for changes. Your continued use of the Services following notification of any changes to these Terms of Use constitutes acceptance of those changes.

18. Miscellaneous Entire Agreement and Severability: These Terms of Use are the entire agreement between you and us with respect to the Services, including use of the Applications and the Site, and supersede all prior or contemporaneous communications and proposals (whether oral, written or electronic) between you and us with respect to the Services, and all modifications to these Terms of Use must be in writing and signed by both parties, except as otherwise provided herein. If any provision of these Terms of Use is found to be unenforceable or invalid, that provision will be limited or eliminated to the minimum extent necessary so that these Terms of Use will otherwise remain in full force and effect and enforceable. The failure of either party to exercise in any respect any right provided for herein shall not be deemed a waiver of any further rights hereunder.

Force Majeure: We shall not be liable for any failure to perform our obligations hereunder where such failure results from any cause beyond our reasonable control, including, without limitation, mechanical, electronic or communications failure or degradation (including "line-noise" interference).

Assignment: These Terms of Use are personal to you, and are not assignable, transferable or sub-licensable by you except with our prior written consent. We may assign, transfer or delegate any of our rights and

obligations hereunder without consent. Agency: No agency, partnership, joint venture, or employment relationship is created as a result of these Terms of Use and neither party has any authority of any kind to bind the other in any respect. Notices: Unless otherwise specified in these Term of Service, all notices under these Terms of Use will be in writing and will be deemed to have been duly given when received, if personally delivered or sent by certified or registered mail, return receipt requested; when receipt is electronically confirmed, if transmitted by facsimile or e-mail; or the day after it is sent, if sent for next day delivery by recognized overnight delivery service. Electronic notices should be sent to [admin@fitnessculture.com](mailto:admin@fitnessculture.com). No Waiver: Our failure to enforce any part of these Terms of Use shall not constitute a waiver of our right to later enforce that or any other part of these Terms of Use. Waiver of compliance in any particular instance does not mean that we will waive compliance in the future. In order for any waiver of compliance with these Terms of Use to be binding, we must provide you with written notice of such waiver through one of our authorized representatives. Headings: The section and paragraph headings in these Terms of Use are for convenience only and shall not affect their interpretation.

19. Fitness Culture Programming DMCA Copyright Policy Fitness Culture Programming has adopted the following general policy toward copyright infringement in accordance with the Digital Millennium Copyright Act. The address of the Designated Agent to Receive Notification of Claimed Infringement ("Designated Agent") is listed at the end of this policy. Procedure for Reporting Copyright Infringement. If you believe that material or content residing on or accessible through Fitness Culture Programming's websites or services infringes a copyright, please send a notice of copyright infringement containing the following information to the Designated Agent listed below: A physical or electronic signature of a person authorized to act on behalf of the owner of the copyright that has been allegedly infringed; Identification of works or materials being infringed; Identification of the material that is claimed to be infringing including information regarding the location of the infringing materials that the copyright owner seeks to have removed, with sufficient detail so that Fitness Culture Programming is capable of finding and verifying its existence; Contact information about the notifier including address, telephone number and, if available, e-mail address; A statement that the notifier has a good faith belief that the material is not authorized by the copyright owner, its agent, or the law; and A statement made under penalty of perjury that the information provided is accurate and the notifying party is authorized to make the complaint on behalf of the copyright owner.

Please contact [info@bigbfitnessculture.com](mailto:info@bigbfitnessculture.com) for any claimed infringement for Fitness Culture Programming.

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