



FIT GROUP USA LLC TERMS OF SERVICE AGREEMENT

This Terms of Service Agreement (“Agreement”) made and entered between Fit Group USA LLC (“Fit Group USA”) and said property within scheduling form, including but not limited to the property’s owner, agent, activity director, or manager (“Facility”) that signs the Agreement or elects the digital checkbox below. The Agreement is effective as of the date the Facility signs the Agreement or selects the digital checkbox below (“Effective Date”).

The purpose of this Agreement is to set forth the terms and conditions whereby Fit Group USA is authorized Facility to operate a fitness event (hereinafter “Fit” or “Event”) at the property described in scheduling form under the following terms and conditions.

TERMS AND CONDITIONS:

1. **LOCATION, DATE and TIME:** The location shall be as that provided and the specific room specified and agreed upon 48 hours from the scheduled event. The date of the Event shall be determined in the scheduling form.
2. **PAYMENT:** All payment terms shall be determined and written in the scheduling form and/or confirmation email.
3. **INSURANCE:** Facility shall procure and maintain liability coverage for the duration of the Agreement.
4. **RELATIONSHIP OF THE PARTIES:** The parties to this Agreement acknowledge and agree that the services provided by Fit Group USA, their employees, subcontractors and agents shall be deemed to be a joint venture or otherwise between Fit Group USA and Facility. The instructors are not the employees of Fit Group USA and are not a party to this Agreement. Changes in management by both parties does not void this agreement, meaning that any services provided will continue unless there is a written notice of cancellation.
5. **ENTIRE BINDING AGREEMENT:** This Agreement constitutes the entire agreement between the Parties with respect to the subject matter covered herein. This Agreement is not binding until received and agreed upon verbally or by signature by both Fit Group USA and Facility. Any changes must be written and signed by both parties to be binding. All prior agreements and understandings, whether written or oral, are fully and completely merged herein and are fully superseded by the terms of this Agreement. . Change in management with either Fit Group USA or Facility does not void this agreement. If any clause in this Agreement is found to be illegal or

unenforceable, said provision shall be deemed to be severed and deleted, and the severance and deletion of such provision shall not affect the validity of the remaining provisions of this Agreement.

6. CLASS ATTENDANCE: Fit Group USA is not responsible for CLASS ATTENDANCE. Classes with zero participation will still be billed per the agreed upon class charge.

7. CLASS ATTENDEES: All venues agree to assume RISK OF LIABILITY and, when possible, have participants sign the waiver of liability. Participants should participate in classes only with a clear understanding of the risks involved in a physical/fitness class.

8. INSTRUCTORS: All fitness instructors provided are Independently Contracted with Fit Group USA, LLC and cannot be contracted out privately. Facility understands that instructors are paid directly from Fit Group USA, LLC and shall not be paid by the client, a \$25 charge will be applied to the Facility if instructor is paid by them. Facility understands that the instructor does not have the ability to make changes to the agreed upon class schedule made between Fit Group USA and Facility.

9. CANCELLATION OF FITNESS EVENTS: Each party may cancel a fitness class or event by providing the other party twenty-four (24) hours written notice. A \$25.00 cancellation fee will be applied to any classes that are confirmed and then canceled. CANCELLATION must be received 24 HOURS prior to class session in order to avoid paying for full services.

10. TERMINATION OF AGREEMENT: Either party may terminate this Agreement at any time, with or without cause, by giving the other party fourteen (14) days written notice to terminate. If cancellation is requested 14 days or less prior to the first class that is scheduled, Facility (you) agree to pay a \$25 charge per class that was cancelled. Termination includes cancellation of scheduled fitness classes within fourteen (14) days.

11. INVOICING: All classes will be invoiced on the first of the month and payable to Fit Group USA within 30 days of final class. Invoices outstanding 60 days or more will be charged a one-time \$50.00 late payment fee. An extra \$50.00 charge will be applied every 60 days that Facility is late on payment.

12. ELECTRONIC PAYMENT FEE: Fit Group USA has the right to charge an electronic payment fee of no more than 2% of the total invoice value. The 2% electronic payment fee will not be charged on any payments via physical check sent in the mail to Fit Group USA, or on any payments made using Fit Group USA's payment system.

13. ARBITRATION AGREEMENT: Facility and Fit Group USA agree to utilize binding individual arbitration to resolve all disputes that might arise out of or be related in

any way to Facility's relationship with Fit Group USA or the interpretation, performance or breach of this Agreement. Such disputes include claims that Fit Group USA might bring against Facility such as, for example, breach of a contract. **Facility and Fit Group USA each specifically waive their respective rights to bring such claims against the other in a court of law and to have a trial by jury.** Pursuant to this section, the party wishing to file a claim must file an arbitration demand with Judicial Arbitration and Mediation Services, Inc. ("JAMS"). JAMS will administer the arbitration proceedings pursuant to its JAMS Comprehensive Arbitration Rules & Procedures that are in effect at the time the arbitration is initiated, as modified by the terms set forth in this Agreement ("JAMS Rules"). Copies of these rules can be obtained at JAMS' website here: <https://www.jamsadr.com/rules-comprehensive-arbitration/>. Any judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction thereof. Notwithstanding the foregoing, if requested by you and if proper based on the facts and circumstances of the Claims presented, the arbitrator shall have the discretion to select a different set of JAMS Rules, but in no event shall the arbitrator consolidate more than one person's Claims, or otherwise preside over any form of representative, collective, or class proceeding. The parties may select a different arbitration administrator upon mutual written agreement.

As part of the arbitration, both Facility and Fit Group USA will have the opportunity for reasonable discovery of non-privileged information that is relevant to the arbitration. The arbitrator may award any individualized remedies that would be available in court. The arbitrator may award declaratory or injunctive relief only in favor of the individual party seeking relief and only to the extent necessary to provide relief warranted by that party's individual claims. The arbitrator will provide a reasoned written statement of the arbitrator's decision which shall explain the award given and the findings and conclusions on which the decision is based.

This Arbitration Agreement shall not require arbitration of the following types of claims: (1) small claims actions brought on an individual basis that are within the scope of such small claims court's jurisdiction; (2) claims that may not be subject to arbitration as a matter of generally applicable law not preempted by the FAA; and (3) individual claims of sexual assault or sexual harassment. Where these claims are brought in a court of competent jurisdiction, Fit Group USA and Facility will not require arbitration of those claims. The Parties' agreement not to require arbitration of these claims does not waive the enforceability of any other provision of this Arbitration Agreement (including without limitation the waivers provided in Section 21), or of the enforceability of this Arbitration Agreement as to any other dispute, claim, or controversy.

This Arbitration Agreement shall be binding upon, and shall include any claims brought by or against any third parties, including but not limited to Facility and Fitness Group USA's parent companies, subsidiaries, affiliates, agents, directors, officers, employees and permitted assigns where their underlying claim(s) arise out of or relate to the services set forth in this Agreement.

14. **GOVERNING LAW AND FORUM:** This Agreement shall be governed by the laws of the State of California without giving effect to any choice of law or conflict of law rules or provisions (whether of this state or any other jurisdiction) that would cause the application of the laws of any other jurisdiction. The exclusive jurisdiction for any legal proceeding regarding this Agreement shall be in and before the state or federal courts and arbitrators of San Diego County, California, and the Parties expressly agree that jurisdiction and venue are proper in said courts or before said arbitrators.

15. **LEGAL COSTS:** The Parties agree that in any legal proceeding undertaken to enforce the terms and provisions of this Agreement, the prevailing party shall be entitled to reimbursement of its actual costs and expenses, including without limitation its reasonable attorneys' fees and expenses, as well as arbitration costs.

16. **FACSIMILE SIGNATURES SCANNED SIGNATURES AND EXECUTION IN COUNTERPARTS:** This Agreement may be executed in counterparts and, if so executed, shall constitute one Master Agreement binding upon all parties. Counterparts may be delivered by mail, commercially recognized courier, facsimile or email. For purposes of this Agreement, copied, facsimile and/or scanned signatures shall be as valid as original signatures.

17. **TRANSFER:** Neither Fit Group USA or Facility may transfer this contract to another party without the prior written consent of the other.

18. **COMPLIANCE WITH LAWS:** Facility agrees to comply with all laws, ordinances, statutes, and regulations relating to the conduct of Facility's business, including but not limited to, obtaining business licenses or requisite insurance. The licenses and insurance shall be in Facility's name or any "dba" used by Facility.

19. **NO LIABILITY:** Fit Group USA is not liable to Facility or any third party for accidents or injuries sustained by Facility or sustained by any individual on Facility's premises for any negligent acts or omissions by any third party or for any negligent acts or omissions by Facility or Facility's agents or employees.

20. **INDEMNIFICATION:** Facility shall indemnify, hold harmless and defend Fit Group USA and any parent, subsidiary, or affiliate thereof, and all directors, officers, attorneys and employees of Fit Group USA (collectively, "Indemnified Company") from any and all demands, claims, actions or causes of action, assessments, losses, damages, fines, judgments, arbitration awards, liabilities (whether absolute or accrued, contingent or otherwise), costs and expenses, including, but not limited to: interest, penalties, and attorneys' fees and expenses asserted against, imposed upon or incurred by Indemnified Company, directly or indirectly, by reason of or resulting from or relating to any of the following: (i) the breach by Facility of any representation, warranty, or covenant contained in this Agreement; (ii) the negligence or misconduct, or acts or omissions, of Facility while performing, or failing to perform Facility's duties under this Agreement; and (iii) any liability, including attorneys' fees and other legal expenses, imposed upon Indemnified Company arising directly or indirectly from the

failure of Facility or any of Facility's employees or agents to comply with the provisions of any local, state, or federal law, regulation or ordinance, or of this Agreement, or with industry standards in regard to Facility's provision of services to Fit Group USA's clients.

21. **WAIVER:** No provision in this Agreement is waivable unless such waiver is agreed to in writing signed by Facility and by a duly authorized officer of Fit Group USA. No waiver by either of the Parties of any breach by the other of the Parties of any condition or provision of this Agreement to be performed by such other of the Parties waives a similar or dissimilar condition or provision at the same or any prior or subsequent time.

22. **AMENDMENT:** The Parties may amend, supplement, or modify this Agreement only through an agreement signed by Fit Group USA and Facility.

23. **SEVERABILITY:** Each provision of this Agreement is severable. If any court of competent jurisdiction, arbitrator, or government agency determines that one or more of the provisions of this Agreement, or any part thereof, is invalid, illegal, or unenforceable, such invalidity, illegality or unenforceability shall not affect nor impair any other provision of this Agreement, and this Agreement shall have full force and effect while being construed as if such invalid, illegal, or unenforceable provision were not contained within it. If the scope of any provision in this Agreement is found to be too broad to permit enforcement of such provision to its full extent, Facility consents to judicial modification of such provision and enforcement to the maximum extent permitted by law.

24. **EXECUTION OF AGREEMENT BY AGENT ON BEHALF OF A CORPORATION, LIMITED LIABILITY COMPANY, OR OTHER ENTITY THAT IS NOT A NATURAL PERSON:** Any Person executing this Agreement as an agent on behalf of a Corporation, Partnership, Limited Liability Company or other entity that is not a natural person represents and warrants that they have the authority to execute this Agreement on behalf of the entity for whom they are executing and represent and warrant that the entity on whose behalf they have executed this Agreement is bound by their execution. By reading this agreement and accepting services from Fit Group USA LLC, Facility agrees to the terms and conditions and understand that if Facility has questions regarding the agreement that Facility may contact Fit Group USA LLC at info@fitgroupusa.com.

25. **ELECTRONIC AGREEMENT:** This Agreement is an electronic contract that governs the relationship between Fit Group USA and Facility. **BY CHECKING THE BOX "I AGREE" THAT APPEARS BELOW, FACILITY ACKNOWLEDGES THAT FACILITY UNDERSTANDS AND AGREES TO BE LEGALLY BOUND BY THIS AGREEMENT AND ITS TERMS.** Checking the box creates an electronic signature that has the same legal force and effect as a handwritten signature.

By clicking "I AGREE," I acknowledge that I have read and understood the Agreement, and agree to be bound by the terms.

FIT GROUP USA LLC