

TERMS OF USE

Effective Date: November 22, 2024

These Terms of Use (together with the applicable additional terms (the “**Additional Terms**”), collectively, “**Terms**”) set forth the terms and conditions applicable to and governing your access to and use of the Powerhouse Gym website with a home page at www.powergymny.com and www.powerhousegym.com and all features, functionalities, services and Content (as defined herein) made available through such website (collectively, the “**Website**”), any digital platforms and devices used or made available at Powerhouse Gym locations (the “**Digital Platforms**”), the Powerhouse Gym application, and any other application or software, and all features, functionalities, services and Content (as defined herein) made available through the foregoing (collectively, “**App**”, together with the Website and Digital Platforms, the “**Services**”) made available by Powerhouse Gym and its affiliates and subsidiaries operating under the POWERHOUSE GYM® brands (“**Powerhouse Gym**”, “**we**”, “**us**”, and “**our**”). By using the Services, and the features and services made available through the Services, you are acknowledging that you have read, understand, and agreed to these Terms and expressly agree that they form a binding contract between you and Powerhouse Gym.

ADDITIONAL TERMS

In addition to this Terms of Use, certain additional terms apply to your use of the App. (See [ADDITIONAL TERMS FOR APPS](#) section below.)

CHANGES TO THE TERMS

These Terms may change as we continue to evolve our business, as well as the Services or any portion thereof. If we change these Terms, we will post the revised document here and such changes will be effective immediately upon that posting. Your continued use of the Services constitutes your acceptance of such changes and agreement to be bound by the modified Terms, and so we recommend that you review these Terms periodically when accessing or using the Services.

These Terms were last updated as of the date set forth above.

ARBITRATION AGREEMENT AND CLASS ACTION WAIVER

Informal Dispute Resolution

Our goal is to do our best to ensure that every experience with Powerhouse Gym will exceed your expectations. If that doesn't happen, we hope you will give us the opportunity to try to address any problem or concern. To do so, please contact us as described in

the [CONTACT US](#) section below. When contacting us, we ask that you include your name and email address, and a description of your problem or concern and any specific relief you seek.

Arbitration Agreement

By using the Services, you and Powerhouse Gym agree to submit any and all Disputes (as defined below) to binding arbitration pursuant to the Federal Arbitration Act (Title 9 of the United States Code), which shall govern the interpretation and enforcement of this arbitration agreement (“**Arbitration Agreement**”). Arbitration shall be before either (1) JAMS (formerly known as Judicial Arbitration and Mediation Services), www.jamsadr.com, or (2) the American Arbitration Association (“AAA”), www.adr.org. If you initiate arbitration, you shall have the choice as between these two arbitration forums; if Powerhouse Gym initiates arbitration, it shall have the choice as between these two arbitration forums.

WE AND YOU EACH AGREE THAT, ANY AND ALL DISPUTES (AS, AND TO THE EXTENT, DEFINED BELOW), WILL BE RESOLVED EXCLUSIVELY AND FINALLY BY BINDING ARBITRATION RATHER THAN IN COURT BY A JUDGE OR JURY, IN ACCORDANCE WITH THIS ARBITRATION AGREEMENT.

Class Action Waiver

By using the Services, you agree that the arbitration of any Dispute (as defined below) shall be conducted on an individual, not a class-wide or collective basis, and that no such arbitration proceedings may be consolidated with any other arbitration or other legal proceedings involving Powerhouse Gym or any other person. You further agree that you, will not be a class representative, class member, or otherwise participate in a class, representative, collective, or consolidated proceeding against Powerhouse Gym. We and you agree that the arbitrator of any Dispute between us may not consolidate more than one person’s claims, and may not otherwise preside over any form of a class or representative proceeding or claim (such as a class action, representative action, consolidated action or private attorney general action).

If the foregoing class action waiver (“**Class Action Waiver**”) or any portion thereof is found to be invalid, illegal, unenforceable, unconscionable, void or voidable, then the Arbitration Agreement will be unenforceable, and the Dispute will be decided by a court. Any claim with respect to the scope of an arbitrator’s authority, jurisdiction, or the validity, legality, enforceability, unconscionability, or applicability of this Arbitration Agreement and Class Action Waiver shall be decided by the arbitrator.

Definition of Dispute

Except as described below, the term “**Dispute**” in this Arbitration Agreement and Class Action Waiver means any dispute, claim, or controversy between you and Powerhouse Gym regarding any aspect of your relationship with Powerhouse Gym, including without limitation those alleging or based in contract, statute, regulation, ordinance, tort, fraud, misrepresentation, fraudulent inducement, negligence, gross negligence or reckless behavior, or any other legal, statutory or equitable theory, and includes the validity, enforceability or scope of these Terms.

Notwithstanding the foregoing, any claim pursuant to the [**GOVERNING LAW; EQUITABLE RELIEF**](#) section below shall be determined by a court of competent jurisdiction and not by an arbitrator.

How Will the Arbitration Work?

Either you or Powerhouse Gym may initiate arbitration proceedings. The arbitration will be conducted before a single arbitrator. The arbitration will be an individual arbitration, and shall in no event be commenced as a representative or class arbitration.

If you or Powerhouse Gym initiate arbitration, you and we have a choice of doing so before JAMS or the AAA:

- For arbitration before JAMS, the JAMS Comprehensive Arbitration Rules & Procedures and the JAMS Recommended Arbitration Discovery Protocols for Domestic, Commercial Cases will apply. The JAMS rules are available at www.jamsadr.com or by calling 1-800-352-5267.
- Which particular rules apply in AAA arbitration will depend on how much money is at issue. For less than \$75,000, the AAA’s Supplementary Procedures for Consumer-Related Disputes/Consumer Arbitration Rules will apply; for Disputes involving \$75,000 or more, the AAA’s Commercial Arbitration Rules will apply. The AAA rules are available at www.adr.org or by calling 1-800-778-7879.

If required for the enforceability of the Arbitration Agreement under the Federal Arbitration Act, Powerhouse Gym will pay all arbitrator’s costs and expenses. If not, those costs will be paid as specified in the above-referenced rules.

Where Will the Arbitration Be Held?

The arbitration will be held in New York City, New York, or the state and city of the Powerhouse Gym you attended if JAMS or AAA arbitration services are available in that location. As set forth in [**“Governing Law”**](#) section below, the arbitrator will apply New York law.

ACCESS TO THE SERVICES

The Services are intended for use by adults age 18 or older and authorized individuals aged 14 (aged 16 in California) to 18 who reside in the United States, or those adults outside of the United States who, by using the Services, agree to use the Services in accordance with United States laws, these Terms and our [Privacy Policy](#). If you choose to access the Services from locations outside of the United States, you do so on your own initiative and at your own risk. By using or attempting to use the Services, you are representing to Powerhouse Gym that you meet the foregoing eligibility requirements and have the legal capacity to enter into and be bound by these Terms.

You are solely responsible for any charges incurred in obtaining access to the Services, including without limitation charges from your Internet service provider and/or wireless carrier. The Services are currently provided for free; however, Powerhouse Gym reserves the right to change the nature of this relationship at any time, without notice or liability to you. In addition, access to the Services or portions thereof may be limited to Powerhouse Gym members, as described in the [“Your Account”](#) section below.

PRODUCT DESCRIPTIONS

We endeavor to be accurate when describing and displaying products and services on the Services. However, items may occasionally be mispriced, described inaccurately, or unavailable (for example, due to delays with respect to updating the Services). Certain weights, measures and similar descriptions are approximate and are provided for convenience purposes only. The particular technical specifications and settings of your device and its display could affect the accuracy of its display of the colors of products offered on the Services. As a result, and as set forth in the [GENERAL DISCLAIMERS](#) section below, Powerhouse Gym does not and cannot guarantee the accuracy, reliability, currency or completeness of the information on the Services, including prices, product images, descriptions, specifications, and indications of availability. We reserve the right to change or update information and to correct errors, inaccuracies, or omissions at any time with or without notice.

YOUR ACCOUNT

Some portions of the Services may invite or require you to create an account and associated log-in credentials, and you may not be able to access certain Content or features, functionalities, or services of the Services, without creating and logging into such an account. In some instances, the right to create an account may be limited to current members of Powerhouse Gym in good standing. You agree to provide true, accurate and

current information when creating an account, and you are responsible for updating your account information as needed to ensure it remains current.

You are responsible for maintaining the confidentiality of your log-in credentials, and you hereby acknowledge and agree that you are fully responsible and liable for all usage and activities that occur under your account, whether authorized by you or not. You agree to notify Powerhouse Gym immediately if you know of or suspect any unauthorized use of your account or password or any other breach of security related to your account.

Notwithstanding anything to the contrary in these Terms, Powerhouse Gym reserves the right to deny the creation of, suspend access to or terminate any account(s), or to remove or modify Content, features, functionalities and/or services available to account holders, at any time in its sole discretion and without notice or liability to you.

REFERRAL PROGRAM

Members may refer up to 25 of their friends at a time. Friends you refer must join Powerhouse Gym within 60 days of the initial referral date. If you choose to use our Referral Program to tell a friend about our services, we will ask you for your friend's [name and email address]. By submitting any name or email address to the Referral Program, you represent that you have the appropriate permission and consent to do so. When signing up, they must also use the email address to which their referral invitation was sent. Once friends you've referred join, they must remain members for 62 days before a Powerhouse Gym Reward is issued. After 62 days, the reward credit will automatically be applied towards your next month's dues.

Reward credit cannot be redeemed for cash or used towards any retail purchase or personal training. All participants must be existing members who are up-to-date on their dues to receive referral reward credit. If your account is overdue you'll have 30 days to get up to date so that your reward can be generated. Powerhouse Gym employees and other people with complimentary memberships, paid in full memberships, corporate memberships, third-party subscription-based fitness memberships, and third-party wellness program memberships are excluded from the program.

USING THE SERVICES

Subject to your compliance with these Terms and other agreements that may be applicable to the use of the Services, Powerhouse Gym gives you a personal, limited, non-exclusive, non-transferable, and revocable right to access and use the Services solely for your personal and non-commercial use. However, Powerhouse Gym does not give you any right to, and you hereby agree not to:

- Use the Services, or any portion thereof, for any commercial use or for the benefit of any other person or entity, including without limitation by selling, renting, leasing, assigning, transferring, hosting, or otherwise commercially exploiting any Services or any portion thereof.
- Copy, stream, reproduce, duplicate, archive, store (other than standard browser caching or App installation/usage), download, publish, modify, make derivative works of, reverse engineer, translate, or distribute any Services or portion thereof by any means, other than as expressly allowed by these Terms or as otherwise clearly contemplated by the features and functionalities of the Services – for example, by sharing Content through a social media “share” feature or downloading and using the App. You may also print or save to your computer, phone or personal device a reasonable number of pages or Content from the Services, but solely for your own personal, internal and non-commercial purposes.
- “Frame” or use the Services or any Content in any way that might confuse, misdirect, or misrepresent their source, or sponsorship or affiliation thereof or therewith.
- Remove, alter, bypass, avoid or circumvent any copyright, trademark or other proprietary notice, digital rights management mechanisms or other content protection measures included in or associated with the Services or any Content. Similarly, you may not modify, remove, or otherwise interfere with any embedded player that may be made available in connection with certain Content.
- Use any software robots, spiders, crawlers, or similar data mining, gathering or extraction tools or methods, whether automated, programmed or manual, including without limitation to access, acquire, copy, monitor or make submissions through any portion of the Services.
- Knowingly or intentionally take any other action that may impose an unreasonable burden or load on the Services, Powerhouse Gym, or its servers and infrastructure or that of its service providers.
- Take any action in connection with your use of the Services or Content which violates any applicable local, state, national or international law, rule, regulation or order of any court in conjunction with your use thereof.
- Otherwise use the Services or Content for any unlawful or abusive purposes, including, but not limited to, the violation of any intellectual property rights (whether belonging to Powerhouse Gym or third parties) or the posting or distribution of any “harmful” or “malicious” code or programming devices (e.g., viruses, malware,

ransomware, corrupted files, key locks, back doors, trap doors, timers or other disabling devices) or any other similar software or programs that may adversely affect the operation of the Services or any other software, hardware, network or other technology (collectively, “**Malicious Code**”).

FINALLY, DO NOT USE THE SERVICES WHILE OPERATING A VEHICLE OF ANY KIND OR WALKING/RUNNING. SUCH USE MAY DISTRACT YOU, MAY CREATE A HAZARD FOR YOU OR OTHERS AND MAY BE ILLEGAL IN YOUR JURISDICTION.

Any unauthorized use by you, or otherwise under your account or on your computer or personal device, of the Services or any portion thereof will immediately terminate the limited rights granted to you under these Terms, and such termination will be without prejudice to any other right or remedy Powerhouse Gym may have under applicable law or in equity.

INTELLECTUAL PROPERTY

As between you and Powerhouse Gym, Powerhouse Gym owns, or has all applicable rights in and to, the Services and all content displayed or made available on or through, or otherwise included in, the Services, including without limitation all text, video clips, audio clips, graphics, trademarks, service marks, trade names, logos, icons, images, data, information, code and software, regardless of whether registered or unregistered, and any combinations and compilations thereof (collectively, “**Content**”). The Services and Content, including the selection, coordination, arrangement and enhancement of Content and the design, layout and “look and feel” of each of the Services, constitute valuable intellectual property of Powerhouse Gym and its licensors, and are protected by applicable copyright, trademark and other applicable intellectual property rights and laws.

The Services and Content are licensed, not sold, to you, and your limited rights to access and use the Services and Content are conditioned upon your compliance with these Terms. Except as expressly set forth herein, nothing in these Terms or otherwise will transfer any title, interest or right in or to any Services or Content to you. Powerhouse Gym hereby expressly reserves all rights not expressly granted in and to the Services and Content.

COMMENTS; NO UNSOLICITED IDEAS

We welcome your feedback regarding the Services, as well as our club locations, fitness services, products and other offerings. However, please understand that by providing any comments, feedback, notes, messages, ideas, suggestions or other communications (collectively, “**Comments**”) posted on, submitted through, or otherwise sent to Powerhouse Gym through or as a result of, the Service, you grant Powerhouse Gym a worldwide, perpetual, irrevocable, royalty-free, transferrable, sublicensable (through

multiple levels) license to use, reproduce, disclose, publish, distribute and otherwise exploit any Comments for any purpose whatsoever (except as provided in our [Privacy Policy](#) with respect to applicable personal information contained in the Comments), without restriction or liability and without notifying or compensating you in any way, and you hereby agree to waive any and all claims against Powerhouse Gym in connection with the foregoing to the maximum extent permitted by applicable law.

All Comments will be treated as non-confidential, and therefore you agree not to post, submit or send to Powerhouse Gym, on an unsolicited basis, any ideas, confidential information, proprietary information or other Comments that you do not wish to make available and license to Powerhouse Gym for its use, including without limitation ideas for new or improved products, services, technologies, marketing, advertisements promotions or other services, products or offerings and any original creative materials such as stories, videos, computer code, images or artwork (all of the foregoing, collectively, “**Unsolicited Ideas**”). Please understand that while we sincerely appreciate the enthusiasm and interest in our company and brand, it is the long-standing policy of Powerhouse Gym to not accept or consider any Unsolicited Ideas. We employ a talented staff of employees, and have existing relationships with outside consultants or vendors, who may be working on the same or similar ideas. The intent of this policy against the acceptance or consideration of Unsolicited Ideas is to avoid the possibility of future misunderstandings when projects developed by our staff, consultants or vendors might seem to others to be similar to your own work.

If, despite this policy, you nonetheless choose to post, submit or otherwise send to Powerhouse Gym any Unsolicited Idea, by doing so you are acknowledging and agreeing that: (1) you are not posting, submitting or sending any confidential or proprietary information; (2) Powerhouse Gym has no obligation to review or use the Unsolicited Idea or to keep it confidential; and (3) Powerhouse Gym will consider the Unsolicited Idea as a Comment licensed to Powerhouse Gym, which it may use, reproduce, disclose, publish, distribute or otherwise exploit as described above, and you hereby agree to waive any and claims against Powerhouse Gym in connection with the foregoing to the maximum extent permitted by applicable law.

PRIVACY

Please visit our [Privacy Policy](#) so that you may understand how we collect, share and use information gathered from or through our access to and/or use of the Services. By using the Services, you acknowledge that you have read and understand the terms of our Privacy Policy and how we collect, use and disclose personal information, as described therein.

THIRD PARTY SITES

For your convenience, the Services may contain links to websites, downloadable apps, or other digital properties, products or services of other persons or entities, including without limitation social media networks (collectively, “**Third-Party Sites**”). When you click on one of these links, you are leaving the Services and accessing a Third-Party Site over which Powerhouse Gym has no control. Including a link to a Third-Party Site does not constitute or imply endorsement by, or affiliation with, Powerhouse Gym of that Third-Party Site, its operator or its contents, services and/or offerings. Your rights and obligations when accessing and using these Third-Party Sites are not governed by these Terms (or our Privacy Policy) and will instead be governed by the terms and policies of those Third-Party Sites, and we encourage you to carefully read those terms and policies of these Third-Party Sites, as their practices may differ from ours.

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, POWERHOUSE GYM MAKES NO REPRESENTATIONS OR WARRANTIES REGARDING THIRD-PARTY SITES AND HAS NO RESPONSIBILITY FOR SUCH THIRD-PARTY SITES OR THE CONTENTS, FEATURES OR OPERATION OF SUCH THIRD-PARTY SITES. YOU ACKNOWLEDGE AND AGREE THAT YOUR DECISION TO ACCESS AND USE ANY THIRD-PARTY SITE IS AT YOUR SOLE RISK, AND, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, POWERHOUSE GYM WILL NOT BE LIABLE FOR ANY LOSS OR DAMAGE ARISING OUT OF OR IN CONNECTION WITH YOUR ACCESS TO, USE OF OR RELIANCE ON ANY THIRD-PARTY SITES.

TEXT MESSAGING

If you choose to receive from or send to Powerhouse Gym any text messages (each, a “**Texting Program**”), Powerhouse Gym will not charge you for the text messaging; however, standard text messaging rates will apply to each text message sent or received as provided in your wireless rate plan (contact your carrier for pricing plans and details).

MOBILE TERMS & CONDITIONS

- You must be at least 14 years of age or older (16 years of age or older in California) to participate in any Powerhouse Gym Texting Program.
- By participating in any Powerhouse Gym Texting Program or signing up for mobile offers and text updates, you consent to receive future recurring automated marketing text messages to the mobile number provided from or on behalf of Powerhouse Gym. You also acknowledge that your agreement to receive these messages is not required as a condition of purchase.

- Message and data rates may apply. All charges are billed by and payable to your mobile service provider. Powerhouse Gym does not charge you for sending or receiving text messages.
- If you would like to be removed from any Powerhouse Gym Texting Program, you must text “STOP” to 42037 to opt-out or reply “STOP” to the number from which you are receiving text messages from Powerhouse Gym. This is the exclusive method for opting out. After texting STOP to 42037 you will receive up to one additional message confirming that your request has been processed.
- Powerhouse Gym reserves the right to remove subscribers from our messaging database at our discretion. For more information, text “HELP” to 42037.
- In the event that you change or deactivate your mobile number, it is your responsibility to notify Powerhouse Gym by texting “STOP” to 42037 to opt out and have that old or deactivated mobile number removed from our messaging database, before you change or deactivate your mobile number.
- Powerhouse Gym will not be liable for any delays in the receipt of any text messages or undelivered messages. Carriers, such as T-Mobile, Verizon Wireless, and AT&T, will also not be liable for any delays in the receipt of any text messages or undelivered messages.
- Data obtained from you in connection with any Powerhouse Gym Texting Program may include your mobile phone number, your carrier’s name, the date, time and content of your messages, and other information you provide to us as part of this service. We may use this information to contact you and to provide the services you request from us.

HEALTH DISCLAIMERS

Powerhouse Gym is not a health care or medical provider. The Services and the features, functionalities, services and Content made available therein, including without limitation any advice, information, workouts, exercises, regimens, nutritional plans, recipes or other materials (collectively, the “**Fitness Features**”), are provided for general informational purposes only, and do not constitute medical advice or the provision thereof. The Fitness Features are not intended to be relied upon for determining the state of your health or in the diagnosis of any medical conditions and are not, and should not be used as, a substitute for a professional medical evaluation. We advise you to see your physician on a regular basis and to seek their advice prior to engaging in any fitness or nutrition regimen or if you have any questions or concerns regarding your health and fitness regimen or for the diagnosis of specific medical conditions.

By using any Fitness Feature, you acknowledge and understand that it may involve or provide information regarding strength, flexibility, aerobic, cardio, meditation, regeneration or other exercises, all of which can be potentially hazardous activities. You should consult with your doctor prior to using any Fitness Feature. If you choose to use any Fitness Features, you should be in good health and have no disability, impairment, injury, disease or ailment preventing you from engaging in active or passive exercise or which would cause increased risk or injury or adverse health consequences as a result of using such Fitness Features, and you hereby assume all risks associated with using such Fitness Features. **IF YOU EXPERIENCE ANY PAIN, DIFFICULTY, DIZZINESS, ILLNESS, OR DISCOMFORT, WHEN USING ANY FITNESS FEATURE, STOP AND CONSULT YOUR PHYSICIAN OR SEEK EMERGENCY MEDICAL ATTENTION IMMEDIATELY.**

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, POWERHOUSE GYM MAKES NO REPRESENTATIONS OR WARRANTIES REGARDING THE FITNESS FEATURES AND IS NOT RESPONSIBLE OR LIABLE FOR YOUR USE OF OR RELIANCE ON ANY SUCH FITNESS FEATURES. YOU ACKNOWLEDGE AND AGREE THAT YOUR DECISION TO RELY ON AND/OR USE ANY FITNESS FEATURE IS AT YOUR SOLE RISK, AND, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, POWERHOUSE GYM WILL NOT BE LIABLE FOR ANY LOSS OR DAMAGE, INCLUDING PERSONAL INJURY AND DEATH, ARISING OUT OF OR IN CONNECTION WITH YOUR RELIANCE ON OR USE OF ANY FITNESS FEATURE.

GENERAL DISCLAIMERS

While we endeavor to provide the best digital experience we can, we cannot and do not guarantee that the Services, Content, or any portion thereof will always be fully-functional, current or accurate. For up-to-date information on location hours, class schedule changes, contact information and any other information regarding any Powerhouse Gym gym, its operations, programs, and/or offerings, please contact the relevant Powerhouse Gym gym location or our corporate offices, as described in the [CONTACT US](#) section below.

YOU UNDERSTAND AND ACKNOWLEDGE THAT POWERHOUSE GYM HAS NO OBLIGATION TO MAINTAIN THE SERVICES, IN WHOLE OR IN PART, NOR DOES IT HAVE ANY OBLIGATION TO PROVIDE YOU WITH ANY RELATED MAINTENANCE OR SUPPORT SERVICES.

POWERHOUSE GYM RESERVES THE RIGHT TO RENDER THE SERVICES, IN WHOLE OR IN PART, TEMPORARILY OR PERMANENTLY UNAVAILABLE OR TO OTHERWISE TERMINATE, SUSPEND ACCESS TO, REPLACE, OR MODIFY THE SERVICES OR ANY PORTION THEREOF, AT ANY TIME AND FOR ANY OR NO REASON, WITH OR WITHOUT PRIOR NOTICE OR LIABILITY TO YOU. ANY CONTENT OR OTHER INFORMATION MADE AVAILABLE ON OR THROUGH THE SERVICES IS ALSO SUBJECT TO CHANGE AT ANY TIME AND WITHOUT NOTICE OR LIABILITY TO YOU.

YOU ACKNOWLEDGE AND AGREE THAT, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, YOUR USE OF THE SERVICES IS AT YOUR SOLE RISK, AND THAT THE SERVICES, AND ALL ASPECTS THEREOF, ARE PROVIDED ON AN “AS IS” AND “AS AVAILABLE” BASIS. POWERHOUSE GYM MAKES NO REPRESENTATIONS OR WARRANTIES, AND, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, HEREBY DISCLAIMS ALL REPRESENTATIONS AND WARRANTIES, OF ANY KIND, EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, INCLUDING WITHOUT LIMITATION: (1) WARRANTIES OF MERCHANTABILITY, TITLE, AVAILABILITY, NON-INFRINGEMENT OR FITNESS FOR A PARTICULAR PURPOSE; (2) WARRANTIES THAT THE SERVICES WILL MEET YOUR REQUIREMENTS, OR OPERATE WITH THE DEVICES, HARDWARE OR SOFTWARE YOU USE; (3) WARRANTIES THAT YOUR ACCESS TO AND USE OF THE SERVICES AND CONTENT WILL BE AVAILABLE, UNINTERRUPTED, CURRENT, OR FREE FROM INACCURACIES, ERRORS, OR MALICIOUS CODE; (4) WARRANTIES THAT ANY DEFECTS OR ERRORS WILL BE CORRECTED; OR (5) ANY IMPLIED WARRANTIES ARISING FROM COURSE OF DEALING OR COURSE OF PERFORMANCE.

LIMITATIONS OF LIABILITY

You agree that, to the maximum extent permitted by applicable law, your sole and exclusive remedy for any problems or dissatisfaction with the Services is to stop using and, where applicable, uninstall the Services.

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT WILL POWERHOUSE GYM, ITS PARENTS, SUBSIDIARIES OR OTHER AFFILIATES, OR ANY OF ITS OR THEIR RESPECTIVE OFFICERS, DIRECTORS, SHAREHOLDERS, EMPLOYEES, CONTRACTORS, SERVICE PROVIDERS, AGENTS, SUCCESSORS AND ASSIGNS (COLLECTIVELY, “**POWERHOUSE GYM PARTIES**”) BE LIABLE TO YOU OR ANY OTHER PERSON FOR ANY DIRECT, CONSEQUENTIAL, INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE, OR EXEMPLARY DAMAGES, INCLUDING WITHOUT LIMITATION FOR LOSS OF USE, LOST DATA, OR LOST PROFITS ARISING OUT OF OR IN CONNECTION WITH THE SERVICES, OR THESE TERMS.

IN ADDITION, IF AND TO THE EXTENT POWERHOUSE GYM IS LIABLE FOR ANY DAMAGES FOR ANY CLAIMS ARISING OUT OF OR IN CONNECTION WITH THE SERVICES, OR THESE TERMS, THEN, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE AGGREGATE LIABILITY OF POWERHOUSE GYM FOR ALL SUCH DAMAGES WILL BE LIMITED TO TEN DOLLARS (\$10.00 USD). Except for any liability of Powerhouse Gym under the forgoing paragraph, you acknowledge and agree that the other Powerhouse Gym Parties will have no liability to you for any direct damages arising out of the Services or these Terms.

INDEMNIFICATION

To the maximum extent permitted by applicable law, you agree to defend, indemnify and hold the Powerhouse Gym Parties harmless from and against any claims, liabilities, losses, damages, costs and expenses (including without limitation reasonable attorneys' fees), including any incurred in enforcing this provision, arising out of or in connection with: (1) your access to and/or use of the Services or any portion thereof; (2) your Comments or Unsolicited Ideas; (3) your failure to comply with these Terms or with any applicable law, rule or regulation; (4) your infringement, misappropriation or violation of the Services, Content, or of any third party's intellectual property right; or (5) any activity occurring by or through your account, whether taken by you or another person accessing or using your account, with or without authorization.

Powerhouse Gym will use reasonable efforts to notify you of any claim, action or proceeding subject to the foregoing paragraph once it becomes aware of it, but any failure to provide you with notice shall not limit your indemnification obligations unless you can establish actual prejudice resulted from such failure. Powerhouse Gym reserves the right, at your expense, to assume the exclusive defense and control of any claim, action or proceeding for which you are required to provide indemnification, and you agree to cooperate with our defense of these claims. You may not settle any claims, actions or proceedings for which you are required to provide indemnification, without Powerhouse Gym's prior written consent.

TERMINATION

You may terminate these Terms at any time by ceasing to access and use the Services and, where applicable, uninstalling the Services. Please understand, however, if you subsequently decide to resume accessing and using the Services, you will again be bound by the then-current Terms. We may terminate these Terms, or otherwise terminate, suspend or restrict your access to and use of the Services, in whole or in part, at any time and without notice or liability to you, for any reason, including without limitation your failure to comply with any portion of these Terms.

However, even after these Terms have been terminated, the sections titled "Arbitration Agreement and Class Action Waiver," "Intellectual Property," "Comments; No Unsolicited Ideas," "Privacy," "Disclaimers," "Limitations of Liability," "Indemnification," "Governing Law," "General," "Additional Terms for Apps," and any other provision which by its nature is intended to survive, will survive termination of these Terms.

MONITORING OF THE SERVICES

We expressly reserve the right to monitor any and all use of the Services and Content, but have absolutely no obligation to do so, nor to continue to do so at any point. We also reserve the right to investigate and take legal action against any against any illegal and/or unauthorized use of the Services and/or Content.

GOVERNING LAW; EQUITABLE RELIEF

These Terms, and your access to and/or use of the Services, will be governed by and construed in accordance with the laws of the State of New York, without regard to its conflict of laws principles. Except as provided above as to those Disputes you or Powerhouse Gym submit to binding arbitration pursuant to the [ARBITRATION AGREEMENT AND CLASS ACTION WAIVER](#) provision above of these Terms, all claims, disputes and matters arising hereunder shall be submitted exclusively to the jurisdiction of the federal and state courts of competent jurisdiction located in New York County, New York, and you and Powerhouse Gym each hereby irrevocably consent to the jurisdiction of such courts and waive all objections thereto.

You acknowledge and agree that these Terms are reasonable and necessary, and that your actual or threatened breach of these Terms would give rise to irreparable harm to Powerhouse Gym for which monetary damages would not constitute an adequate remedy and, in addition to any and all other rights that may be available in respect of such breach or threatened breach, will entitle Powerhouse Gym to immediate injunctive and other equitable relief without any requirement to post bond.

GENERAL

These Terms and any other terms and conditions that may be made available with respect to the Services or portions thereof, constitute the complete and exclusive agreement between you and Powerhouse Gym concerning your access to and use of the Services, and supersede and govern over all prior proposals, agreement or other communications. Nothing in these Terms shall be construed as creating any agency, partnership or other form of joint enterprise between you and Powerhouse Gym. Our failure to enforce any provision or exercise any right under these Terms will not constitute a waiver of such provision or right, nor will any waiver of any breach of these Terms act as a waiver of any other provision or a waiver of any future breaches. If any provision of these Terms is declared unenforceable or invalid by a court of competent jurisdiction, the provision will be enforced to the maximum extent permitted by law, and the other provisions of these Terms will remain unaffected and in full force and effect. If necessary, Powerhouse Gym will amend or replace such provision with one that is valid and enforceable and which

achieves, to the extent possible, our original objectives and intent.

CONTACT US

Powerhouse Gym's corporate offices are located at 386 Park Ave. S., 11th Floor, New York, NY 10016. If you have questions regarding these Terms, the Services, or our gyms, please contact us at this address or [click here](#). Your feedback is always welcome and appreciated.

ADDITIONAL TERMS FOR APPS

The following terms (the “**App Terms**”) supplement the Terms of Use and apply to the App. You acknowledge and agree that the availability of each App is dependent upon the third-party app store from which you download the App (the “**App Store**”). You acknowledge that these App Terms are between you and Powerhouse Gym, and not with the applicable App Store. Each App Store may have its own terms and conditions to which you must agree before downloading an App from it, and the limited rights Powerhouse Gym grants you to use the App are conditioned upon your compliance with any and all terms and conditions of such App Store.

Without limiting anything contained in the Terms of Use, the applicable Third-Party License Terms regarding open source or third-party software components apply to your use of the App.

In addition, the following terms and conditions apply to an App or Services that you download from any Apple App Store (an “**iOS App**”):

1. **Acknowledgement:** You and Powerhouse Gym each acknowledge that the Terms, including these Additional Terms for Apps, are between you and Powerhouse Gym, and not with Apple Inc. (“**Apple**”), and that, subject to any limitations set forth in these Terms, Powerhouse Gym, not Apple, is solely responsible for the iOS App and its contents. To the extent the Terms or an Additional Terms set forth herein provide for usage rules applicable to an iOS App that are less restrictive than or otherwise conflict with the Apple App Store Terms of Service, the more restrictive or conflicting provision in such Apple App Store Terms of Service will govern and apply.
2. **Scope of License:** The license granted to you under the Terms is limited to a non-transferable license to use the iOS App on any iPhone, iPad, Apple Watch or other Apple-branded iOS product or device that you own or control, as permitted by the Usage Rules set forth in the App Store Terms of Service, except that such iOS App may be accessed, acquired, and used by other accounts associated with the purchaser via Apple's “Family Sharing” or volume purchasing.

3. **Maintenance and Support:** To the extent any maintenance and support services are required under applicable law or expressly contemplated by these Terms, Powerhouse Gym, not Apple, is solely responsible for such services. You and Powerhouse Gym each acknowledge that Apple has no obligation whatsoever to furnish any maintenance and support services with respect to the iOS App.
4. **Warranty:** Powerhouse Gym, not Apple, is solely responsible for any product warranties, whether express or implied by law, to the extent not effectively disclaimed or limited under the Terms. In the event of any failure of the iOS App to conform to any applicable warranty, you may notify Apple, and Apple will refund the purchase price (if any) for the iOS App to you. To the maximum extent permitted by applicable law, Apple will have no other warranty obligation whatsoever with respect to the iOS App, and any other claims, losses, liabilities, damages, costs or expenses attributable to any failure to conform to any warranty, to the extent not effectively disclaimed or limited under the Terms, will be Powerhouse Gym's sole responsibility.
5. **Product Claims:** You and Powerhouse Gym each acknowledge that Powerhouse Gym, not Apple, is responsible for addressing any claims you or a third party may have relating to the iOS App or your possession and/or use of that iOS App, including, but not limited to: (1) product liability claims; (2) any claim that the iOS App fails to conform to any applicable legal or regulatory requirement; and (3) claims arising under consumer protection or similar legislation. However, you acknowledge and agree that Powerhouse Gym's responsibility for the foregoing claims is limited and disclaimed, to the maximum extent permitted by applicable law, as further described in these Terms.
6. **Intellectual Property Rights:** You and Powerhouse Gym each acknowledge that, in the event of any third party claim that the iOS App, or your possession and use of the iOS App, infringes that third party's intellectual property rights, Powerhouse Gym, not Apple, will be solely responsible for the investigation, defense, settlement and discharge of any such intellectual property infringement claim, subject to any disclaimers and limitations set forth in, and your indemnification obligations under, the Terms.
7. **Legal Compliance:** You represent and warrant that (1) 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 (2) you are not listed on any U.S. Government list of prohibited or restricted parties.

8. **Third Party Terms of Agreement:** You agree to comply with applicable third party terms of agreement when using any iOS App, including without limitations agreements with wireless carriers or Internet service providers.
9. **Third Party Beneficiary:** You and Powerhouse Gym each acknowledge and agree that Apple, and Apple's subsidiaries, are third party beneficiaries of these Terms, and that, upon your acceptance of the Terms, Apple will have the right (and will be deemed to have accepted the right) to enforce these Terms against you as a third party beneficiary thereof.