

TERMS OF SERVICE

Last Updated on February 28, 2019

PLEASE NOTE THAT THE TERMS OF SERVICE SHALL GOVERN YOUR USE AND ACCESS TO ANY WEBSITES, MOBILE APPLICATIONS OR OTHER ELECTRONIC SERVICES MADE AVAILABLE BY BEFIT4US TO BUSINESSES, PERSONAL TRAINERS OR OTHER PARTICIPATING MERCHANTS (“SITES”) THAT LINK TO OR REFERENCE THESE TERMS OF SERVICE. PLEASE READ THESE TERMS OF SERVICE CAREFULLY TO ENSURE THAT YOU UNDERSTAND EACH PROVISION. DO NOT ACCESS OR USE THE SITE IF YOU ARE UNWILLING OR UNABLE TO BE BOUND BY THESE TERMS.

These Terms of Service, including all attachments, exhibits, schedules, addenda (“Terms”), are entered into by and between **BEFIT4US LTD**, and its affiliates or subsidiaries, with its principal place of business at Enterprise House, 2 Pass Street, Oldham, Manchester, OL9 6HZ, United Kingdom (“BEFIT4US”) and the merchant on whose behalf you are agreeing to these Terms (“Merchant” or “you”).

By registering for, accessing or using the Sites, or by clicking “Let’s Go” or otherwise affirmatively manifesting your intent to be bound by these Terms, you represent and warrant that you have: (a) all necessary rights and authority necessary to enter into this Agreement on behalf of the Merchant; and (b) read, understood, and agree to be bound by these Terms on the Merchant’s behalf, as well as all other agreements referenced herein and any future modification hereto.

1. General Terms

- 1.1. **Applicability.** These Terms apply to all Sites, which Merchant accesses, uses or subscribes to. These Terms do not apply to BEFIT4US websites or applications that are accessed by, or products or services that are purchased or redeemed by an individual for their personal use (“End User”).
- 1.2. **Amendment of Terms.** BEFIT4US may amend the Terms from time to time, all amendments will be effective upon posting of such updated Terms. Merchant’s continued access to or use of the Site after such posting constitutes Merchant’s consent to be bound by the Terms, as amended.
- 1.3. **Additional Terms.** In addition to the Terms, certain plans, offers, products, services, elements or features may also be subject to additional terms, conditions guidelines or rules which may be posted, communicated or modified by BEFIT4US or applicable third parties at any time. Merchant’s use of any such plan, offer, product, service, element or feature is subject to those additional terms and conditions, which are hereby incorporated by reference into the Terms, provided that in the event of any conflict between such additional terms and the Terms, the Terms shall control. The BEFIT4US Privacy Policy is hereby incorporated by reference.

2. Membership

- 2.1. **Membership Options.** There are a number of ways to participate in the services that BEFIT4US provides through its Site. These options consist of different services and features and may be subject to additional and differing conditions, prices, policies and limitations. BEFIT4US reserves the right to modify, terminate or otherwise amend our offered options and plans at any time in our discretion.
- 2.2. **Subscription Plans.** To enjoy certain access and services offered by BEFIT4US (“Membership”), Merchant must create an account at www.befit4us.com (“Account”) and provide certain information about Merchant’s business and submit a payment for fees (“Membership Fees”), applicable to that selected Membership level, in order to use the features that are offered as part of the Membership and Site. Membership starts on the date that Merchant submits a valid and accepted method of payment (“Payment Method”) or reactivate a pre-existing Membership. At the time of payment, the Merchant also selects the Membership period (“Membership Term”). Upon expiration of the Membership Term, Merchant’s Membership will automatically renew for the same Membership Term as initially selected, and BEFIT4US will automatically bill the Membership fee to Merchant’s Payment Method, until Merchant’s subscription is cancelled or terminated. If Merchant upgrades or downgrades to a different level of Membership, all such levels will be governed by these Terms and will continue indefinitely until canceled or terminated.
- 2.3. **Membership Fees.** Membership fees are based on the Membership level and any additional BEFIT4US purchased services and not actual usage. Payment obligation are non-cancelable, and Membership Fees are non-refundable unless provided herein. The Membership level cannot be decreased during the Membership Period.
- 2.4. **Effect of Non-Payment.** BEFIT4US may terminate Merchant’s Membership, close Merchant’s account, suspend Merchant’s ability to use certain portions of the Sites, if Merchant’s account fails into arrears or Payment Method is declined. Unpaid amounts may be subject to interest at the lesser of one and one-half percent (1.5%) per month or the maximum permitted by law, plus collection costs.

3. Availability and Account

- 3.1. **Sites Availability.** While BEFIT4US uses reasonable efforts to keep the Sites accessible, the Sites may be unavailable from time to time for any reason including, without limitation, routine maintenance. Merchant understands and acknowledges that due to circumstances both within and outside of BEFIT4US control, Sites access may be interrupted, suspended or terminated. BEFIT4US retains the right at sole discretion to deny use or access to the Sites or any other services to anyone or an account, at any time and for any reason. BEFIT4US reserves the right to modify, update, or discontinue the Sites at BEFIT4US’s sole discretion, at any time, for any or no reason, and without notice or liability.
- 3.2. **Account.** Merchant is responsible for maintaining the confidentiality of Merchant’s account password. Merchant is also responsible for all activities that occur in connection with Merchant’s account. Merchant agrees to notify BEFIT4US immediately of any unauthorized



use of Merchant's account. BEFIT4US reserves the right to close Merchant's account at any time for any or no reason. Merchant may not access or use the Sites if BEFIT4US have previously banned Merchant from the Site or closed Merchant's account.

4. Ownership of Content

- 4.1. Merchant Content. Merchant agrees and acknowledges to be liable for any content Merchant publishes on any of the Sites or Account ("Merchant Content"). Merchant assumes all risks associated with Merchant Content, including anyone's reliance on its quality, accuracy, or reliability, or any disclosure by Merchant of information in Merchant Content. Merchant represents that it owns or has the necessary permissions to use and authorize the use of Merchant Content as described herein.
- 4.2. BEFIT4US Right to Use Merchant Content. Merchant acknowledges and agrees that BEFIT4US may use Merchant Content in a number of different ways, including publicly displaying it, reformatting it, incorporating it into advertisements and other works, creating derivative works from it, promoting it, distributing it, and allowing others to do the same in connection with their own websites and media platforms ("Other Media"). As such, Merchant hereby irrevocably grants BEFIT4US world-wide, perpetual, non-exclusive, royalty-free, assignable, sublicensable, transferable rights to use Merchant Content for any purpose. Additionally, Merchant irrevocably grants the End Users the right to access and view Merchant Content in connection with End User's use of the Sites and any Other Media. Finally, Merchant irrevocably waives, and causes to be waived, against BEFIT4US and its End Users any claims and assertions of moral rights or attribution with respect to Merchant Content.
- 4.3. BEFIT4US Content. Merchant acknowledges and agrees that BEFIT4US owns the Sites' visual interfaces, interactive features, graphics, design, compilation, including, but not limited to, BEFIT4US compilation of End User Content (as defined below), computer code, products, software, aggregate user review ratings, and all other elements and components of the Sites excluding Merchant Content, End User Content and third party content ("BEFIT4US Content"). Merchant may not modify, reproduce, distribute, create derivative works or adaptations of, publicly display or in any way exploit any of the BEFIT4US Content in whole or in part except as expressly authorized by these Terms.
- 4.4. End User Content. Any content inserted, provided or offered by the End User to the Sites, including any that may have been created by users employed or contracted by BEFIT4US ("End User Content") does not necessarily reflect the opinion of BEFIT4US. BEFIT4US reserves the right to remove, screen, edit, or reinstate End User Content, from time to time, at BEFIT4US sole discretion, for any reason or no reason, and without notice to Merchant.
- 4.5. Retention of Content. Merchant acknowledges and agrees that BEFIT4US has no obligation to retain or provide Merchant with copies of Merchant Content or End User Content, nor does BEFIT4US guarantee any confidentiality with respect to Merchant Content or End User Content.
- 4.6. Advertising. BEFIT4US and its licensees may publicly display advertisements and other information adjacent to Merchant Content, and Merchant is not entitled to any compensation for such advertisements.

5. Prohibited Activity

Merchant acknowledges and agrees that Merchant will not and will not allow, assist, encourage or enable any third party to do the following on any of the Sites:

- 5.1. Submit any purposely inaccurate information, commit fraud or falsify information;
- 5.2. Violate any third party's right, including any breach of confidence, copyright, trademark, patent, trade secret, moral rights, privacy rights, right of publicity, or any other intellectual property or proprietary right;
- 5.3. Threaten, stalk, harm or harass other, or promote bigotry or discrimination;
- 5.4. Send bulk emails, surveys, or other mass messaging, whether commercial in nature or not engage in keyword spamming or otherwise attempt to manipulate the Sites' search results or any this party website;
- 5.5. Violate any applicable law;
- 5.6. Reverse engineer any portion of any of the Sites;
- 5.7. Remove or modify any copyright, trademark or other proprietary rights notice that appears on any portion of the Sites or on any materials printed or copied from the Sites;
- 5.8. Attempt to interfere with service to any End User in any manner, including, without limitation, by means of submitting a virus to the Site, or attempts at overloading, "flooding", "spamming", "mail bombing" or "crashing" the Sites;
- 5.9. Use the Sites or any of its contents to advertise or solicit, for any other commercial, political or religious purpose, or to compete, directly or indirectly with BEFIT4US, without BEFIT4US prior written consent;
- 5.10. Resell or repurpose Merchant's access to the Sites;
- 5.11. Use the Sites or any of its resources to solicit the End Users, merchants or other business partners of BEFIT4US to become users or partners of other online or offline services directly or indirectly competitive or potentially competitive with BEFIT4US, including without limitation, aggregating current or previously offered promotions by other Merchants;
- 5.12. Using any End User's or other merchant's information that is not Merchant's information from the Sites for any commercial purpose, including, but not limited to, marketing;
- 5.13. Offering vouchers or otherwise using any Sites to offer vouchers for resale, or for speculative, false, fraudulent or any other purpose not expressly permitted by these Terms;
- 5.14. Accessing, monitoring or copying any content or information from any Sites using any robot, spider, scraper or other automated means or any manual process for any purpose without our express written permission;
- 5.15. Attempt to gain unauthorized access to any of the Sites, user accounts, computer systems or networks connected to any of the Sites through hacking, password mining or any other means;

- 5.16. Use the Sites or any Site Content to transmit any computer viruses, worms, defects, Trojan horses or other items of a destructive nature (collectively, "Viruses");
- 5.17. Remove, circumvent, disable, damage or otherwise interfere with any security-related features of the Site, features that prevent or restrict the use or copying of Site Content, or features that enforce limitations on the use of the Site;
- 5.18. Take any action that places excessive demand on BEFIT4US Sites or services, or imposes, or may impose an unreasonable or disproportionately large load on our servers or other portion of our infrastructure (as determined in our sole discretion) supporting the Sites; or
- 5.19. Act illegally or maliciously against the business interests or reputation of BEFIT4US, other merchants or BEFIT4US services.

6. Copyright and Trademarks

- 6.1. BEFIT4US Copyright. The Sites contains copyrighted material, trademarks and other proprietary information, including, but not limited to, text, software, photos, video, graphics, music and sound, and the entire contents of the Sites are protected by copyright laws. BEFIT4US owns a copyright in the selection, coordination, arrangement and enhancement of such content, as well as in the content original to it. Merchant may not modify, publish, transmit, participate in the transfer or sale, create derivative works, or in any way exploit any of the BEFIT4US content, in whole or in part. Except as otherwise expressly stated under copyright law, no copying, redistribution, retransmission, publication or commercial exploitation of downloaded material without the express permission of BEFIT4US or the copyright owner is permitted. If copying, redistribution or publication of copyrighted material is permitted, Merchant will make independent attribution and/or agree to make no changes in or deletion of any author attribution, trademark legend or copyright notice.
- 6.2. Merchant Copyrights. Merchant will not upload, post or otherwise make available on the Sites any material protected by copyright, trademark or other proprietary right without the express permission of the owner of the copyright, trademark or other proprietary right. BEFIT4US does not have any express burden or responsibility to provide Merchant with indications, markings or anything else that may aid Merchant in determining whether the material in question is copyrighted or trademarked. Merchant will be solely liable for any damage resulting from any infringement of copyrights, trademarks, proprietary rights or any other harm resulting from such a submission. By submitting material to any public area of the Sites, Merchant warrant that the owner of such material has expressly granted BEFIT4US the royalty-free, perpetual, irrevocable, non-exclusive right and license to use, reproduce, modify, adapt, publish, translate and distribute such material (in whole or in part) worldwide and/or to incorporate it in other works in any form, media or technology now known or hereafter developed for the full term of any copyright that may exist in such material. Merchant also permit any other End User to access, view, store or reproduce the material for such End User's personal use. Merchant also grants BEFIT4US the right to edit, copy, publish and distribute any material that Merchant makes available on the Sites.
- 6.3. BEFIT4US reserves the right to terminate its agreement with a Merchant, who infringes third-party copyrights.

7. Digital Millennium Copyright Act (DMCA) Procedures

If Merchant believes that any material has been posted via the Sites by an End User in a way that constitutes copyright infringement, Merchant shall provide BEFIT4US with the following information at info@befit4us.com : (a) an electronic or physical signature of the person authorized to act on behalf of the owner of the copyrighted work; (b) an identification of the copyrighted work and the location on the Sites of the allegedly infringing work; (c) a written statement that Merchant has a good faith belief that the disputed use is not authorized by the owner, its agent, or the law; (d) Merchant's name and contact information, including telephone number and e-mail address; and (e) a statement by Merchant that the above information in Merchant's notice is accurate and, under penalty of perjury, that Merchant are the copyright owner or authorized to act on the copyright owner's behalf.

8. Termination

- 8.1. Termination and Effect of Termination. If Merchant breached any of these Terms, BEFIT4US may terminate Merchant's Membership, close Merchant's account, suspend Merchant's ability to use certain portions of the Sites, and/or ban Merchant altogether from the Sites without notice, liability of any kind or obligation to return any of the Membership Fees. Any such action could prevent Merchant from accessing Merchant's account, the Site, Merchant's Content, BEFIT4US Content, End User Content, or any other related information.
- 8.2. Survival. In the event of any termination of these Terms, whether by Merchant or BEFIT4US, Sections 1, 2, 4-12, 15, 16 will continue in full force and effect, including our right to use Merchant Content.

9. Suggestions and Improvements

By sending BEFIT4US any ideas, suggestions, documents or proposals ("Feedback"), Merchant agrees that (i) Merchant's Feedback does not contain confidential or proprietary information of third parties, (ii) BEFIT4US is under no obligation of confidentiality, express or implied, with respect to the Feedback, (iii) BEFIT4US may have something similar to the Feedback already under consideration or in development, and (iv) Merchant grants BEFIT4US an irrevocable, non-exclusive, royalty-free, perpetual, worldwide license to use, modify, prepare derivative works, publish, distribute and sublicense the Feedback, and Merchant irrevocably waives, and causes to be waived, against BEFIT4US and its End Users any claims and assertions of any moral rights contained in such Feedback.

10. Third Parties

The Sites may include links to other websites or applications (each, a "Third Party Site"). Merchant agrees and acknowledges that BEFIT4US does not control or endorse any Third Party Site and is not responsible for the availability or contents of such Third Party Sites.

11. Warranty Disclaimer

MERCHANT EXPRESSLY AGREES THAT USE OF THE SITES IS AT MERCHANT'S SOLE RISK. NEITHER BEFIT4US, ITS SUBSIDIARIES AFFILIATES NOR ANY OF RESPECTIVE EMPLOYEES, AGENTS, MERCHANTS, THIRD-PARTY CONTENT PROVIDERS OR LICENSORS, OR ANY OF THEIR OFFICERS, DIRECTORS, EMPLOYEES OR AGENTS, WARRANT THAT USE OF THE SITES WILL BE UNINTERRUPTED OR ERROR FREE; NOR DOES BEFIT4US MAKE ANY WARRANTY AS TO (I) THE RESULTS THAT MAY BE OBTAINED FROM USE OF THE SITE, OR (II) THE ACCURACY, COMPLETENESS, RELIABILITY OR CONTENT OF ANY INFORMATION (INCLUDING, BUT NOT LIMITED TO, PRODUCT DESCRIPTIONS), SERVICE, PRODUCTS OR VOUCHERS PROVIDED THROUGH THE SITE. THE SITE AND ALL CONTENT, STATEMENTS (AS DEFINED BELOW) AND OTHER INFORMATION CONTAINED ON THE SITE, AND PRODUCTS AND SERVICES ACCESSIBLE OR AVAILABLE THROUGH THE SITE ARE MADE ACCESSIBLE OR AVAILABLE ON AN "AS IS" AND "AS AVAILABLE" BASIS. BEFIT4US HEREBY DISCLAIMS ANY AND ALL REPRESENTATIONS, WARRANTIES AND CONDITIONS, WHETHER EXPRESS OR IMPLIED, AS TO THE OPERATION OF THE SITE OR THE CONTENT, STATEMENTS OR OTHER INFORMATION CONTAINED ON THE SITE, OR THE PRODUCTS OR SERVICES ACCESSIBLE OR AVAILABLE THROUGH THE SITE, INCLUDING, BUT NOT LIMITED TO, THOSE OF TITLE NONINFRINGEMENT, MERCHANTABILITY, AND FITNESS FOR A PARTICULAR PURPOSE.

12. Limitation of Liability

IN NO EVENT SHALL BEFIT4US, ITS SUBSIDIARIES, AFFILIATES NOR ANY OF THEIR RESPECTIVE EMPLOYEES, AGENTS, MERCHANTS, PARTNERS, THIRD-PARTY CONTENT PROVIDERS OR LICENSORS, OR ANY OF THEIR OFFICERS, DIRECTORS, EMPLOYEES OR AGENTS, BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR PUNITIVE DAMAGES ARISING OUT OF OR RELATED TO MERCHANT'S USE OF THE SITE, THE CONTENT, STATEMENTS AND OTHER INFORMATION CONTAINED THEREIN, THE PRODUCTS OR SERVICES ACCESSIBLE OR AVAILABLE THROUGH THE SITES OR THESE TERMS. IN NO EVENT WILL BEFIT4US AGGREGATE LIABILITY EXCEED THE AMOUNTS ACTUALLY PAID BY AND /OR DUE FROM MERCHANT FOR THE THEN-CURRENT MEMBERSHIP TERM.

13. Forums, Bulletin Boards and Discussion Groups.

- 13.1. Communities. BEFIT4US may offer or provide forums, bulletin boards, discussion groups, chat rooms or other communication facilities on the Sites (collectively, "Communities"). BEFIT4US shall have the right, but not the obligation, to monitor the content within the Communities at any time, for any reason, including to determine compliance with these Terms and any operating rules established by BEFIT4US, as well as to satisfy any applicable law, regulation or authorized government request. Without limiting the foregoing, BEFIT4US shall have the right, but not the obligation, to remove any material from the Communities that BEFIT4US, in its sole discretion, finds to be in violation of these Terms or otherwise objectionable. Any opinions, advice, ratings, discussions, comments, and/or other messages or postings of any kind made by Merchant or any other End User to the Communities (collectively, "Statements"), are those of the respective author(s) or distributor(s) and not of BEFIT4US.
- 13.2. BEFIT4US does not control or endorse any Statement found in any part of the Communities, and BEFIT4US disclaim any liability concerning the Statements and the Communities and any actions resulting from Merchant's participation in any part of the Communities, including any objectionable content. Merchant acknowledges that Statements are not confidential.
- 13.3. License to Statements. By posting Statements or other information on or through the Communities, Merchant grants BEFIT4US a royalty-free, perpetual, irrevocable, non-exclusive license to use, reproduce, modify, publish, edit, translate, distribute, perform, and display the Statements alone or as part of other works in any form, media, or technology whether now known or hereafter developed without territorial or time limitations, and to sublicense such rights through multiple tiers of sublicensees. Merchant's license of any Statements or information submitted above extends to use for promotions, advertising, market research or any other lawful purpose, without limitation.

14. Marketing and Communication

Merchant may have the opportunity to request additional information about BEFIT4US's services, register for merchant newsletters, or otherwise make inquiries by submitting Merchant's business contact information through the Site ("Contact Details"). Merchant hereby consents to BEFIT4US using and sharing Contact Details to make, and allow others on BEFIT4US's behalf to make, unsolicited marketing calls and send Merchant postal and electronic communications (e.g., emails) with information about BEFIT4US's and BEFIT4US business partner's products, promotions and/or services; or to solicit Merchant's views on BEFIT4US services, develop new offers and promotions, and for market research.

15. Indemnification/Release

Merchant agrees to defend, indemnify and hold harmless BEFIT4US, its subsidiaries, affiliates and their respective directors, officers, employees and agents from and against all alleged or actual claims, damages, losses, penalties, costs and expenses, including attorneys' fees, arising out of or related to: any products, services, promotions, vouchers provided by Merchant in connection with the Sites, Merchant Statements, or any use of the Site in violation of these Terms; End User's personal injury, damages to any End User's personal property or End



User's costs incurred in connection or arising from Merchant's services, products, promotions, vouchers, representations or Merchant's Content; or (iii) infringement of any intellectual property right, or misappropriation of trade secret by Merchant's Content or Statements. Merchant is solely responsible for Merchant's interactions with End Users. To the extent permitted under applicable laws, Merchant hereby release BEFIT4US from any and all claims or liability related to any product or service Merchant makes or offers to End Users, Merchant Statements, any action or inaction by Merchant, including Merchant's failure to comply with applicable law and/or failure to abide by the terms of a BEFIT4US, and any conduct or speech, whether online or offline, of any other user or merchant.

16. General Terms

BEFIT4US may provide Merchant with notices, including those regarding changes to the Terms by email, regular mail or communications through the Sites. Any failure to exercise or enforce any right or provision of these Terms does not constitute a waiver of such right or provision. 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. If any provision of these Terms is found to be unenforceable or invalid, then only that provision shall be modified to reflect the parties' intention or eliminated to the minimum extent necessary so that the Terms shall otherwise remain in full force and effect and enforceable. The Terms, and any rights or obligations hereunder, are not assignable, transferable or sublicensable by Merchant except with BEFIT4US's prior written consent but may be assigned or transferred by BEFIT4US without restriction. Any attempted assignment by Merchant shall violate these Terms and be void. Any disputes arising out of or related to these Terms and/or any use of the Sites or other BEFIT4US services shall be governed by the laws of England and Wales, without regard to its choice of law rules and without regard to conflicts of laws principles. Merchant and BEFIT4US irrevocably consent to the exclusive jurisdiction and venue of courts in Manchester, England, for all proceedings in court under these Terms. The provisions of these Terms apply equally to and are for the benefit of BEFIT4US, its subsidiaries, affiliates and its third-party content providers and licensors, and each shall have the right to assert and enforce such provisions directly or on its own behalf. BEFIT4US will not be liable for any default or delay in the performance of its obligations under these Terms due to acts of God, terrorism, natural disasters, earthquakes, fire, riots, floods, and other similar events, to the extent such event is beyond BEFIT4US's reasonable control. These Terms contain the entire agreement between Merchant and BEFIT4US regarding the use of the Sites and supersede any prior agreements on such subject matter. The parties acknowledge that no reliance is placed on any representation made but not expressly contained in these Terms.

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